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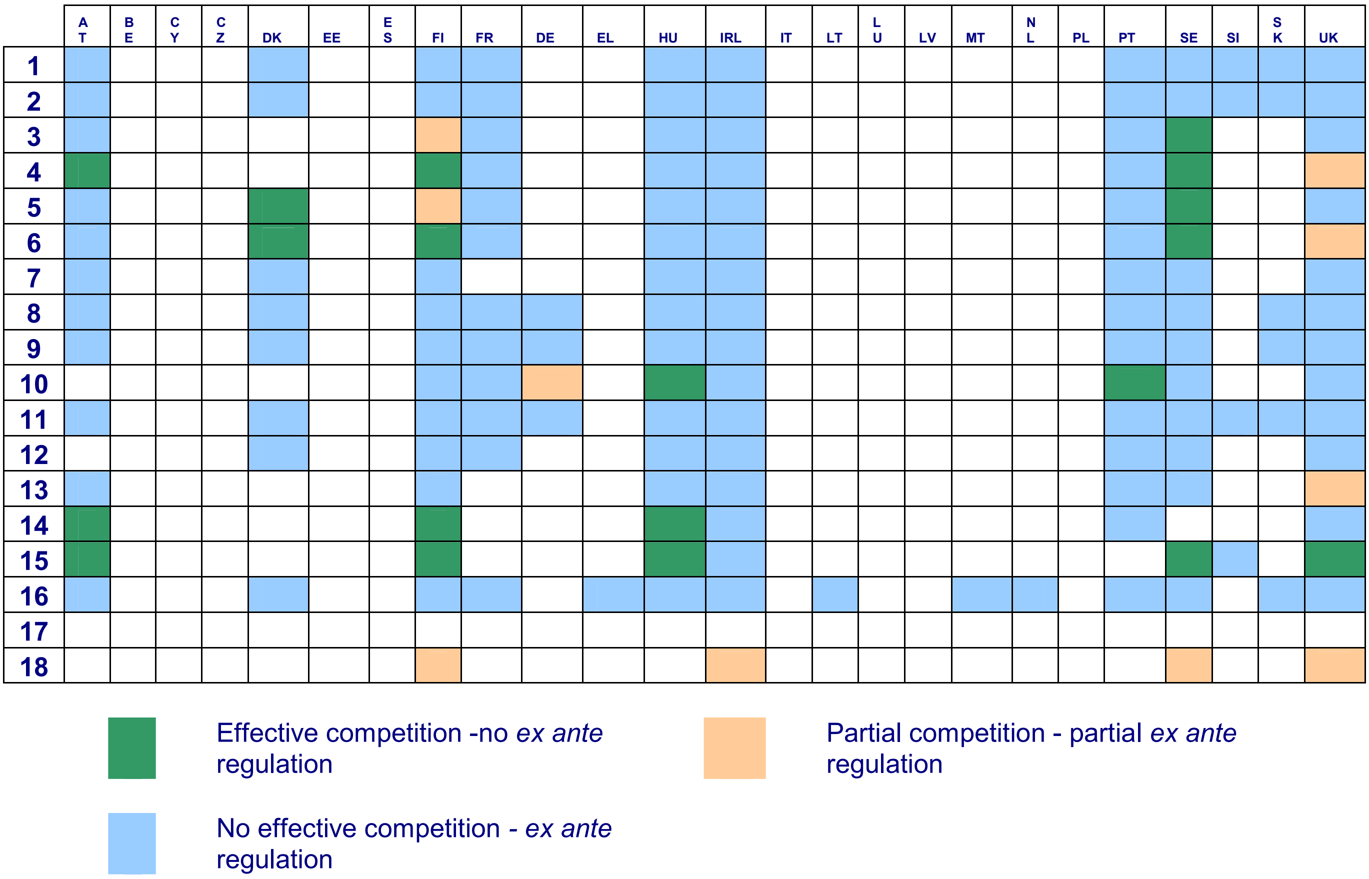
Annexes accompanying the Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on Market reviews under the EU Regulatory Framework-Consolidating the internal market for electronic communications

{COM(2006) 28 final}

ANNEX I

Competition / Regulation



Overview of notifications assessed until 30 September 2005

ANNEX II

1. MARKETS OVERVIEW

This document highlights the main trends and conclusions of all markets assessed (229 notifications, until 30 September 2005).

1.1. Retail access for residential and non-residential users (markets 1 and 2)

Retail access can be described as the provision of a connection to the fixed public telephone network for the purpose of making and/or receiving telephone calls and related services (such as faxes and dial-up internet). Eleven NRAs have completed and notified their analysis of the retail access markets[1]. All of them found the incumbent PSTN operators dominant on these markets and imposed the full set of remedies including price control. In general, carrier selection and carrier pre-selection obligations, as well as occasionally wholesale line rental remedies[2], have also been imposed to prevent leverage of dominance from the retail access markets on to the retail calls markets. Most NRAs, in line with the Recommendation, defined separate markets for residential and non-residential customers, while ComReg and Oftel defined the retail access markets on the basis of different levels of access (low and high level narrowband access).

1.2. Retail local, national and international voice calls for residential and non-residential users (markets 3 to 6)

These markets comprise all outgoing telephone calls from a fixed location. Publicly available telephone services for residential and non-residential customers are still commonly provided over traditional fixed telephone networks. However, the introduction of new technologies, in particular VoIP[3], is changing the market environment. Nine NRAs have completed and notified their analysis[4]. Although in a majority of notifications, the fixed line incumbent was still found to have SMP, it appears that retail calls markets are gradually becoming competitive[5]. In cases where SMP was found, NRAs have imposed various remedies, including price regulation.

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1 NRAs of Austria (TKK), Denmark (NITA), Finland (Ficora), France (ART/ARCEP), Hungary (NHH), Ireland (ComReg), Portugal (ANACOM), Slovakia (TO SR), Slovenia (APEK), Sweden (PTS) and the United Kingdom (Oftel/Ofcom).

2 Customers may be allowed to opt for calls to be carried by another operator than the one providing the access line. Such an alternative operator can be selected either in advance without having to dial a routing prefix for each call (carrier pre-selection) or with having to dial a routing prefix for each call (carrier selection). Wholesale line rental makes it possible for alternative operators to offer retail access services together with calls services to end customers in a way that the customer only receives one single bill from the alternative operator. The alternative operator resells to the end customer the access line that it rents from the incumbent at the wholesale level.

3 Voice over Internet Protocol: the transport of voice traffic using Internet Protocol technology. The VoIP traffic can be carried on a private managed network (“IP telephony”) or the public Internet (“Internet telephony”).

4 NRAs of Austria (TKK), Denmark (NITA), Finland (Ficora), France (ART/ARCEP), Hungary (NHH), Ireland (ComReg), Portugal (ANACOM), Sweden (PTS) and the United Kingdom (Oftel/Ofcom).

5 Residential international calls in Austria, non-residential national and international calls in Denmark, national and international calls in Finland and Sweden (both residential and non-residential markets).

When assessing whether VoIP services are part of the markets for fixed calls services, NRAs must assess the demand-side and supply side substitution of such services. In this analysis, price elasticity of demand, the ability to price discriminate, the broadband penetration rate, take-up of VoIP by broadband households, the presence of the PSTN incumbent in the provision of VoIP services, etc. are essential elements to be looked at. ARCEP and PTS so far have explicitly included VoIP in the calls markets. NITA explicitly excluded VoIP services from the markets due to the lack of substitutability between traditional calls and VoIP services in that particular Member State. Where NRAs considered it premature to include VoIP in their market analysis because of its low take up so far, the Commission requested them to monitor the development of VoIP closely and to reassess the market analysis in case of changing market conditions.

As regards possible regulation of VoIP, it is recalled that any obligation imposed under the regulatory framework must be appropriate in light of the specific market failure that it intends to remedy. Even if VoIP and PSTN telephony belong to a same product market and SMP is found on that market, a differentiated regulatory approach may be appropriate for VoIP on the one hand and PSTN telephony on the other hand, as the competitive challenges related to both products may be different. In particular, in view of the fact that VoIP is in principle provided over broadband, effective regulation of wholesale broadband access products (LLU and bitstream) may remove barriers to entry as regards the provision of VoIP and may therefore make retail regulation redundant.

1.3. Retail leased lines (market 7)

A leased line is a permanently connected communications link between two premises dedicated to the customer's exclusive use. Of the 8 NRAs that have notified their market analysis, NITA, Ficora, NHH, ComReg and PTS defined the retail leased lines market in line with the Recommendation, while TKK, ANACOM and Ofcom defined the market more broadly. Additionally, ComReg defined a separate market for international leased lines, beyond the recommended market, in order to lift regulation imposed under the previous legal framework. In respect of regulatory remedies, Annex VII of the Universal Service Directive provides that NRAs shall ensure that the provision of the minimum set of leased lines follows the basic principles of non-discrimination, cost orientation and transparency. With two exceptions (Ficora and NHH), NRAs imposed all the regulatory remedies foreseen by the Universal Service Directive.

1.4. Wholesale fixed call origination (market 8)

Provision of wholesale call origination enables alternative operators to provide end users with retail fixed telephone services, including dial-up Internet services. Eleven NRAs have notified their analysis on call origination at a fixed location[6]. The market was in all but two cases (NITA and BNetzA) defined in line with the Recommendation. The incumbent operator was found to have SMP in all cases, indicating that wholesale fixed call origination remains one of the bottlenecks in electronic communications. When regulating this market effectively, through carrier selection and carrier pre-selection obligations and possibly wholesale line rental obligations, the downstream retail access and calls markets may however over time become sustainably competitive so that retail regulation could be phased out.

6 ANACOM, ARCEP, BNetzA, ComReg, Ficora, NHH, NITA, Ofcom, PTS, TKK, TO SR.

1.5. Wholesale fixed call termination (market 9)

In short, wholesale call termination can be defined as the wholesale service offered by operator A to operator B in order to enable the subscribers of operator B to call subscribers of operator A. In line with the Recommendation, all 11 notifying NRAs defined each individual fixed telephone network to constitute a relevant market for call termination[7]. It follows that fixed termination markets are natural monopolies. With the exception of a notification by BNetzA – which was vetoed by the Commission – NRAs designated all the terminating operators as having SMP. In most cases the full set of remedies set out in the Access Directive were imposed on large SMP operators. NRAs sometimes applied asymmetric remedies for example by imposing lighter cost control obligations on newly established operators. In this respect, the Commission emphasised the need of adequate reasoning for imposing asymmetric remedies within similarly defined markets. The Commission also stressed the importance of efficient cost-orientation and cost-accounting obligations. To the extent that it would be considered disproportionate to impose costly cost-orientation and cost-accounting obligations on a small operator, other forms of cost-control for such operators, such as benchmarking, could be considered.

1.6. Transit services in the public fixed telephone network (market 10)

Transit services refer to the (long distance) conveyance of switched calls on the public fixed telephone network. The Explanatory Memorandum to the Recommendation indicated that transit was one of the areas of fixed line telecommunications where competition could be expected to develop and it is interesting to note that the transit market seems indeed to have become effectively competitive in a number of Member States. Out of 9 NRAs[8] having completed and notified their analysis, ANACOM, NHH and TKK have found no SMP[9], although in the case of TKK the Commission required the NRA to withdraw the notification on the basis of a flaw in the market definition (see section 3.4 above).[10] In 5 cases (ARCEP, BNetzA, ComReg, Ofcom, PTS), the respective NRA designated only 1 operator, whilst in Finland 14 operators were found to have SMP. As to the remedies, in 4 cases (ARCEP, ComReg, Ofcom, PTS) the full set of the remedies under the Access Directive was imposed.

1.7. Wholesale unbundled access (including shared access) to local loops (market 11)

This market covers wholesale access to the metallic local loops and sub-loops, i.e., to the "last mile" of the public fixed telecommunications network connecting the subscriber to the local exchange and to the main distribution frame, respectively.[11] Once access is granted, new entrants can provide both voice and data services to end users over the local loop rented from the incumbent. Owing to the financial and social cost of duplicating this very last section of the fixed network, barriers to entry to this market are generally considered to be very high.

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7 ANACOM, ARCEP, BNetzA, ComReg, Ficora, NHH, NITA, Ofcom, PTS, TKK, TO SR.

8 ANACOM, ARCEP, BNetzA, ComReg, Ficora, NHH, Ofcom, PTS, TKK.

9 In addition, BNetzA which had split the transit market into various more narrowly defined product markets on the basis of the origin and destination of the call, found certain of these more narrowly defined transit markets to be effectively competitive.

10 The Austrian regulator has challenged the validity of that decision before the European Court of Justice ("ECJ") via a preliminary ruling request. (See case C-256/05, Telekom Austria). On 6 October 2005, the ECJ ruled that the regulator's request for preliminary ruling was inadmissible.

11 Local loops were already subject to ex ante regulation prior to the entry into force of the New Regulatory Framework. Council Regulation 2887/2000 on unbundled access to the local loop sets harmonised conditions for unbundled access to the local loop.

Not surprisingly therefore, all 12 notifying NRAs found that this market is not effectively competitive and designated the incumbent operators as SMP operators.[12]

Through a number of comments letters, the Commission has mainly strived to ensure effective and coherent regulation of this enduring bottleneck in electronic communications. The Commission has underlined the importance of effective price regulation on the basis of long run incremental costs (LRIC), which is in the Commission's view essential to foster competition in the various downstream markets where new entrants are dependant on local loop unbundling.

1.8. Wholesale broadband access (market 12)

Wholesale broadband access, also known as "bitstream", enables new entrants to provide retail broadband access services to end users by relying on their own backbone network in combination with access to the middle and lower parts of the incumbent's network. Bitstream access is generally considered as an essential stepping stone for new entrants towards investment in full-scale own network roll-out on the basis of local loop unbundling (so-called "ladder of investment" theory[13]). Effective regulation of wholesale broadband access is essential in order to foster the development of broadband services in line with the Lisbon strategy.

Eight NRAs have completed and notified their analysis and all of them found the incumbent PSTN operators dominant[14]. In almost all cases, the designated SMP operators were made subject to the full set of remedies under the Access Directive. Access obligations were often imposed at several levels of the network. The question whether wholesale bitstream access products provided over non-PSTN infrastructure, typically cable but also other networks, currently or prospectively form part of this market continues to be debated. ANACOM, Ficora, Ofcom and PTS NRAs included cable in the market but in none of these cases the inclusion of cable had any impact on the SMP finding or the remedies proposed. Where NRAs based the inclusion of cable in the wholesale broadband access market on the indirect pricing constraint stemming from competition between PSTN-based broadband access and cable-based broadband access at the retail level, the Commission commented that in the presence of evidence excluding demand side substitutability at the wholesale level, such an indirect competitive constraint should have been taken into account the stage of the assessment of SMP.

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12 ANACOM, APEK, ARCEP, BNetzA, ComReg, Ficora, NHH, NITA, Ofcom, PTS TKK, TO SR.

13 There are three types of wholesale services that a new entrant can build on to offer retail broadband services: (i) a pure resale service, where the new entrant resells the incumbent's broadband connection to the end user and does not invest in own infrastructure, (ii) bitstream, where the new entrant builds its own backbone but relies on the incumbent's infrastructure for the lower and middle parts of the network, and (iii) local loop unbundling where the new entrant rolls out its own network down to the street cabinets and relies on the incumbent's infrastructure only for the so-called "last mile". The ladder of investment theory implies that new entrants pass gradually from relying on (i), via (ii) to (iii). In order to undertake investments in network development, they first need to be able to develop a sufficiently large retail customer basis relying on the network infrastructure of the incumbent.

14 ANACOM, ARCEP, ComReg, Ficora, NHH, NITA, Ofcom, PTS.

1.9. Wholesale terminating segments of leased lines (market 13) and wholesale trunk segments of leased lines (market 14)

Wholesale leased lines consist of dedicated unmanaged connections between two points. Operators use them either to complete their own network infrastructure or to provide retail lease line services (see market 7 above). Under the Recommendation, the precise delineation between trunk and terminating segments of leased lines is recognised as being highly dependent on the network topology specific to the Member States concerned. Concerning the terminating segments, all 7 notifying NRAs[15] found that the fixed incumbent operator(s) had SMP.[16] However, concerning the trunk segments, of the 6 notifying NRAs, Ficora, NHH and TKK found the market to be effectively competitive.

1.10. Access and call origination on public mobile telephone networks (market 15)

These services allow new entrants to make use of the infrastructure of a mobile network operator to provide mobile telephone services to retail customers. The Explanatory Memorandum to the Recommendation states that "*the level of competition generally observed in the [retail mobile market] indicates that intervention at the wholesale level may not be warranted*". Against that background, it is interesting to note that out of 8[17] having notified this market (ARCEP, APEK, Ficora and ComReg considered it appropriate to nevertheless regulate it (based on a finding of individual or collective dominance). However, the Commission required Ficora to withdraw its notification following a veto decision (see section 3.4 above) and ARCEP voluntarily withdrew its notification in the course of the Commission's first phase investigation.

The fact that at the wholesale level no access to third parties is granted does not exclude the possibility to analyse the relevant market. Where the majority of or all supply on the relevant market is captive, i.e. provided internally by vertically integrated mobile network operators, the structure of supply at the wholesale level can be derived from supply at the retail level. On the other hand, although retail market conditions may inform an NRA of the structure of the wholesale market, they may and need not in themselves be conclusive as regards the finding of SMP at the wholesale level. In order to find joint SMP in the wholesale market of mobile access and call origination, it is not indispensable to find joint SMP at the retail level, but – among others – it must be shown that fringe competitors, such as emerging mobile network operators, do not have the ability to challenge any anticompetitive coordinated outcome.

1.11. Voice call termination on individual mobile networks (market 16)

Termination services are described under market 9 above. When provided on a mobile network, they are referred to as mobile termination services. All 14 NRAs[18] so far defined the market in line with the Recommendation, i.e. voice call termination by each individual network operator was found to constitute a separate relevant market. It follows that termination markets are natural monopolies and all NRAs found that all mobile network operators had SMP on their respective markets. In Austria, the Netherlands and Sweden,

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15 ANACOM, ComReg, Ficora, NHH, Ofcom, PTS, TKK.

16 Although one NRA found that there was no SMP on the more narrowly defined market for very high capacity terminating segments of leased lines.

17 ARCEP, APEK, ComReg, Ficora, NHH, Ofcom, PTS, TKK.

18 ANACOM, ARCEP, BNetzA, ComReg, EETT (Greece), Ficora, MCA(Malta), NHH, NITA, Ofcom, OPTA, PTS, RRT (Lithunaia), TKK, TO SR.

where MVNOs sell their own termination services at a price which is not controlled by the host network, MVNOs were also found to have SMP on the market. NRAs generally imposed on SMP operators the full set of obligations set out in the Access Directive, i.e., transparency, non-discrimination, accounting separation, access, price control and cost accounting, although in some cases less stringent obligations were imposed on smaller operators. LRIC-based cost orientation obligations were imposed in most cases, sometimes in combination with a glide-path for a limited period of time.

The Commission's main concern for this market has been to assess the effectiveness of the remedies proposed by the NRAs. The Commission commented for example that the imposition of an accounting separation obligation would seem justified in this market as an appropriate complement to other obligations. Only such a remedy allows internal transfers to be rendered visible and permits the NRA to check compliance with the obligations of non-discrimination and of price controls. Furthermore, where cost-orientation is imposed but no concrete regulated tariff is set, the Commission commented that the choice of cost-models and the setting of a cost-oriented price should not be left to (negotiations between) the operators. Such a remedy would be ineffective as it would fail to provide adequate transparency and legal certainty for market players and would cause delays in bringing termination rates down to the cost oriented level, to the detriment of consumers and effective competition. Finally, where asymmetric remedies were imposed amongst SMP operators, the Commission underlined that such differential treatment should be adequately reasoned.

1.12. Wholesale national market for international roaming on public mobile networks (market 17)

When a mobile subscriber travels abroad, his home operator needs to have negotiated a mobile network operator in that country a network access agreement in order to enable the subscriber to make and receive calls. The network access is known as the provision of wholesale international roaming services. No NRA has notified this market yet. The market analysis requires cross-border data collection for which the NRAs are co-operating in the context of the European Regulators Group.

1.13. Broadcasting transmission services to deliver broadcast content to end users (market 18)

This market includes the transmission of broadcasting signals (radio and television signals) on behalf of the content providers to the end users. All 5 NRAs (ComReg, Ficora, Ofcom, PTS and TKK) that have notified the broadcasting market so far, have separated it into various more narrowly defined product markets on the basis of the platform used (cable, satellite or terrestrial), the transmission mode (analogue or digital), the geographical coverage of the network (local or national) and/or the signal transmitted (radio or television). Concrete market circumstances, underlying the market definition, appear to vary substantially from one Member State to the other. However in most Member States, the main bottlenecks seem to lay with the national analogue and digital terrestrial transmission systems. Where SMP was found, NRAs imposed transparency and non-discrimination obligations, while access, accounting separation and cost-orientation obligations were imposed in the majority of the cases. In addition to the market definition assessment, where NRAs wanted to exempt parts of the market from regulation (for example cable transmission networks), the Commission has carefully analysed whether such an approach was justified on the basis of the three criteria test not being met and/or on the basis of no operator having SMP the market.

ANNEX III

Market 1: Access to the public telephone network provided at a fixed location for residential customers

Member State	Market definition similar to Recommendation	SMP found for	Remedies imposed				
			Carrier (Pre) Selection	Non-discrimination	Transparency	Price control / cost accounting	Accounting separation
Austria	YES	1 operator	YES**	YES	NO	YES	YES
Denmark	YES	1 operator	YES	NO	NO	NO***	NO
Finland	YES	43 operators	YES	NO	YES	NO	NO
France	YES	1 operator	YES**	YES	YES	YES	YES
Hungary	YES	5 operators	YES	NO	NO	YES	NO
Ireland	NO*	1 operator	YES**	YES	YES	YES	YES
Portugal	YES	1 operator	YES**	YES	YES	YES	YES
Slovakia	YES	1 operator	YES	YES	NO	YES	NO
Slovenia	YES	1 operator	NO	YES	NO	YES	NO
Sweden	YES	1 operator	YES**	YES	NO	NO	YES
United Kingdom	NO*	2 operators	NO	YES	YES	YES****	NO

**Refinement, broader/narrower market and/or merger of markets*
***Imposition of WLR*
**** Universal service-based price control obligation only*
***** Differentiated or no remedy imposed on certain SMP operators*

Overview of notifications assessed until 30 September 2005

Market 1: Access to the public telephone network at a fixed location for residential customers

Overview of notifications assessed until 30 September 2005

Case reference	Product Market Definition	Geographic Market Definition	SMP found for	Remedies Imposed	Results of Community Consultation
UK/2003/0009 and UK/2003/0010	2 segments defined: (i) residential retail analogue exchange line services and (ii) residential retail ISDN2 exchange line services.	UK (excluding the Hull area) and the Hull area	BT and Kingston	1 - Non-discrimination 2 - Publication of charges, terms and conditions of supply 3 - BT only: annual ceiling for charges equivalent to RPI increase 4 - BT only: cost-accounting in respect of residential analogue access	The Commission made a **comment** on: **Markets defined more narrowly than in the Recommendation:** A broader market definition, in line with the Recommendation, is not likely to lead to a different SMP outcome. Therefore the conclusion on the exact scope of the markets is not relevant.
FI/2003/0020	Similar to the Recommendation.	Regional	43 regional operators	1 - Users' right to a connection to fixed telephone network	The Commission made a **comment** on:

				2 - Obligation to publish standard agreement terms and tariff information on services 3 - User's right to pre-selection / carrier pre-selection	**Remedies at retail level:** No further obligations are imposed on the SMP operators at retail level in addition to CS/CPS and other non-SMP obligations based on the Universal Service Directive. NRA should assess the impact of regulation at wholesale level and of CS/CPS on the market and consider additional regulation at retail level.
PT/2004/0053 and PT/2004/0091	Similar to the Recommendation.	National	PT Group	1 - Transparency 2 - Non-discrimination 3 - Cost orientation and cost accounting 4 - Accounting separation 5 - Carrier(Pre)Selection 6 - Price affordability 7 - Wholesale line rental	The Commission made a **comment** on: **Wholesale line rental:** Wholesale line rental is an appropriate remedy to address the lack of competition in the relevant retail market. The need for Wholesale Line rental should decrease, as competitors to the incumbent invest in their infrastructure.
AT/2004/0109	Similar to the Recommendation.	National	Telekom Austria	1 - Carrier(Pre)Selection	**No comments** made by the Commission.

				2 - Wholesale line rental	
				3 - Non-discrimination	
				4 - Accounting separation	
				5 - Cost orientation and cost accounting	
				6 - Ex ante approval of end-users tariffs	
SE/2004/0112	Similar to the Recommendation.	National	TeliaSonera	1 - Wholesale line rental (including reference offer and price regulated on a retail minus basis)	**No comments** made by the Commission.
				2 - Non-discrimination	
				3 - Accounting separation	
				4 - Carrier(Pre)Selection, also in respect of access supplied via Wholesale line rental to another operator	

				5 - Obligation to supply calls not covered by carrier pre-selection (freephone, emergency, premium rate calls)	
				6- Provision of unbundled broadband access (no requirement to purchase telephone subscription)	
HU/2005/0130	Similar to the Recommendation. Includes public payphones.	Regional	5 regional operators: Matáv, Invitel Távközlési Szolgáltató, Hungarotel Távközlési, Emitel, Monor Telefon Társaság	1 - Carrier(Pre)Selection	The Commission made a **comment** on: **Remedies imposed at retail level prior to analysing the corresponding wholesale markets:** Retail market remedies are supposed to be imposed after it has been recognised that remedies imposed on the wholesale market do not provide for effective competition. When carrying out the review of the relevant wholesale markets, the NRA should assess the effectiveness of remedies imposed at wholesale level in addressing market failures in the relevant retail market.
				2 - Not to increase prices in excess to the consumer price index.	
IE/2005/0158	Access for residential and non-residential customers are included in one market. Lower	National	Eircom	1 - Carrier (Pre) Selection and Wholesale Line Rental, including price control in the form of retail minus	The Commission made a **comment** on: **Further consultations** planned by ComReg on details of cost accounting and accounting
				2 - Access obligation	

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	narrowband access (PSTN, FWA, ISDN) and higher narrowband access (ISDN2 and ISDN30) are in different markets.			3 - Non-discrimination 4 - Transparency 5 - Accounting separation 6- Cost orientation and cost accounting 7 - Not to unreasonably bundle services	separation are required to be notified to the Commission.
SK/2005/0172	Similar to the Recommendation.	National	Slovak Telecom	1 - Carrier(Pre)Selection 2 - Price control (not allowed to charge unreasonably high or low prices) 3 - Non-discrimination 4 - Prohibition of bundling of products	The Commission made **comments** on: **Proper national consultation** on each draft measure when the measure has a significant impact on the relevant market. Give all interested parties the opportunity to comment on draft measures. **Implementation of price control and cost accounting:** Details on the implementation of price control and cost accounting have to be specified in the final measure. Reference to Art. 17(4) of the Universal Service Directive. **Implementation of cost orientation related to CS/CPS:** The Commission pointed out that cost orientation on CS/CPS should be implemented with an

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					appropriate cost accounting method.
DK/2005/0183	Similar to the Recommendation.	National	TDC	1 - Carrier(Pre)Selection 2 - Price regulation (due to the Universal service obligations)	**No comments** made by the Commission.
FR/2005/0221	Similar to the Recommendation.	Metropolitan France, overseas territories and Mayotte (except the territory of Saint-Pierre-et-Miquelon)	France Télécom	1 - Carrier (Pre) Selection and Wholesale Line Rental 2- Non discrimination 3 - Prohibition of abusive bundling of access and call products 4 - Prohibition of excessive or predatory pricing	The Commission made a **comment** on: **Remedies and next market review:** ARCEP is invited to ensure full, effective and appropriate enforcement of the obligations imposed in markets 8 to 12 within the shortest possible timeframe, and accordingly to commit reviewing the present market analysis following such enforcement, in any case at an earlier timing than the proposed 2008 review.

				5 - Ex ante tariff information vis-a-vis the NRA 6 - Accounting separation	
SI/2005/0231	Similar to the Recommendation.	National	Telekom Slovenije	1- Non-discrimination 2- Prohibition of excessive price and cost orientation 3- Cost accounting	The Commission made **comments** on: **Remedies at retail level:** When carrying out the forthcoming review of the corresponding relevant wholesale market, it is necessary to assess the effectiveness of remedies to be imposed at wholesale level in addressing market failures at retail level. **Obligation to provide ADSL services not only to end-users who subscribe also to ISDN:** The remedy imposed (non-discrimination) would be more appropriate if it included a general prohibition to oblige end-users of fixed access products to subscribe to a particular type of access product under any circumstances unless it is technically necessary for the provision of a given service.

Market 2: Access to the public telephone network provided at a fixed location for non residential customers

Member State	Market definition similar to Recommendation	SMP found for	Remedies imposed				
			Carrier (Pre) Selection	Non-discrimination	Transparency	Price control / cost accounting	Accounting separation
Austria	YES	1 operator	YES**	YES	NO	YES	YES
Denmark	YES	1 operator	YES	NO	NO	NO***	NO
Finland	YES	43 operators	YES	NO	YES	NO	NO
France	YES	1 operator	YES**	YES	YES	YES	YES
Hungary	YES	5 operators	YES	NO	NO	YES	NO
Ireland	NO*	1 operator	YES**	YES	YES	YES	YES
Portugal	YES	1 operator	YES**	YES	YES	YES	YES
Slovakia	YES	1 operator	YES	YES	NO	YES	NO
Slovenia	YES	1 operator	NO	YES	NO	YES	NO
Sweden	YES	1 operator	YES**	YES	NO	NO	YES
United Kingdom	NO*	2 operators	NO	YES	YES	YES****	NO

** Refinement, broader/narrower market and/or merger of markets*
*** Imposition of WLR*
**** Universal service-based price control obligation only*
***** Differentiated or no remedy imposed on certain SMP operators*

Overview of notifications assessed until 30 September 2005

Market 2: Access to the public telephone network at a fixed location for non-residential customers

Overview of notifications assessed until 30 September 2005

Case reference	Product Market Definition	Geographic Market Definition	SMP found for	Remedies Imposed	Results of Community Consultation
UK/2003/0009 and UK/2003/0010	3 segments defined: (i) business retail analogue exchange line services; (ii) business retail ISDN2 exchange line services and (iii) business retail ISDN30 exchange line services.	UK (excluding the Hull area) and the Hull area	BT and Kingston	1 - Non-discrimination 2 - Publication of charges, terms and conditions of supply 3- BT only: annual ceiling for charges equivalent to RPI increase	The Commission made a **comment** on: **Markets defined more narrowly then in the Recommendation:** A broader market definition, in line with the Recommendation, is not likely to lead to a different SMP outcome. Therefore the conclusion on the exact scope of the markets is not relevant.
FI/2003/0021	Similar to the Recommendation.	Regional	43 regional operators	1 - Users' right to a connection to fixed telephone network 2 - Obligation to publish standard agreement terms and tariff information on services	The Commission made a **comment** on: **Remedies at retail level:** No further obligations are imposed on the SMP operators at retail level in addition to CS/CPS and other non-SMP obligations based on the Universal Service

				3 - User's right to pre-selection / carrier pre-selection	Directive. NRA should assess the impact of regulation at wholesale level and of CS/CPS on the market and consider additional regulation at retail level.
PT/2004/0054 and PT/2004/0091	Similar to the Recommendation.	National	PT Group	1 - Transparency 2 - Non-discrimination 3 - Cost orientation and cost accounting 4 - Accounting separation	The Commission made a **comment** on: **Wholesale line rental:** Wholesale line rental is an appropriate remedy to address the lack of competition in the relevant retail market. The need for Wholesale Line rental should decrease, as competitors to the incumbent invest in their infrastructure.
AT/2004/0110	Similar to the Recommendation.	National	Telekom Austria	1 - Carrier(Pre)Selection 2 - Wholesale line rental 3 - Non-discrimination 4 - Accounting separation	**No comments** made by the Commission.

				5 - Cost orientation	
				6 - Ex ante approval of end-users tariffs	
SE/2004/0113	Similar to the Recommendation.	National	TeliaSonera	1 - Wholesale line rental (including reference offer and price regulated on a retail minus basis)	**No comments** made by the Commission.
				2 - Non-discrimination	
				3 - Accounting separation	
				4 - Carrier(Pre)Selection, also in respect of access supplied via WLR to another operator	
				5 - Obligations to supply calls not covered by carrier pre-selection (freephone, emergency, premium rate calls)	
				6- Provision of unbundled broadband access (no requirement to purchase telephone subscription)	

HU/2005/0131	Similar to the Recommendation.	Regional	5 regional operators: Matáv, Invitel Távközlési Szolgáltató, Hungarotel Távközlési, Emitel, Monor Telefon Társaság	1 - Carrier(Pre)Selection 2 - Not to increase prices in excess to the consumer price index.	The Commission made a **comment** on: **Remedies imposed at retail level prior to analysing the corresponding wholesale markets:** Retail market remedies are supposed to be imposed after it has been recognised that remedies imposed on the wholesale market do not provide for effective competition. When carrying out the review of the relevant wholesale markets, the NRA should assess the effectiveness of remedies imposed at wholesale level in addressing market failures in the relevant retail market.
IE/2005/0159	Access for residential and non-residential customers are included in one market. Lower narrowband access (PSTN, FWA, ISDN) and higher narrowband access (ISDN2 and ISDN30) are	National	Eircom	1 - Carrier (Pre) Selection and Wholesale Line Rental, including price control in the form of retail minus 2 - Access obligation 3 - Non-discrimination 4 - Transparency	The Commission made a **comment** on: **Further consultations** planned by ComReg on details of cost accounting and accounting separation are required to be notified to the Commission.

	in different markets.			5 - Accounting separation	
				6 - Cost orientation and cost accounting	
				7 - Not to unreasonably bundle services	
SK/2005/0173	Similar to the Recommendation.	National	Slovak Telecom	1 - Carrier(Pre)Selection	The Commission made **comments** on: **Proper national consultation** on each draft measure when the measure has a significant impact on the relevant market. Give all interested parties the opportunity to comment on draft measures. **Implementation of price control and cost accounting:** Details on the implementation of price control and cost accounting have to be specified in the final measure. Reference to Art. 17(4) of the Universal Service Directive. **Implementation of cost orientation related to CS/CPS:** The Commission pointed out that cost orientation on CS/CPS should be implemented with an appropriate cost accounting
				2 - Price control (not allowed to charge unreasonably high or low prices)	
				3 - Non-discrimination	
				4 - Prohibition of bundling of products	

					method.
DK/2005/0184	Similar to the Recommendation	National	TDC	1 - Carrier(Pre)Selection 2 - Price regulation (due to the Universal service obligations)	**No comments** made by the Commission.
FR/2005/0222	Similar to the Recommendation.	Metropolitan France, overseas territories and Mayotte (except the territory of Saint-Pierre-et-Miquelon)	France Télécom	1 - Carrier (Pre) Selection and Wholesale Line Rental 2- Non-discrimination 3 - Prohibition of abusive bundling of access and call products 4 - Prohibition of excessive or predatory pricing 5 - Ex ante tariff information vis-a-vis the NRA 6 - Accounting separation	The Commission made a **comment** on: **Remedies and next market review:** ARCEP is invited to ensure full, effective and appropriate enforcement of the obligations imposed in markets 8 to 12 within the shortest possible timeframe, and accordingly to commit reviewing the present market analysis following such enforcement, in any case at an earlier timing than the proposed 2008 review.

SI/2005/0231	Similar to the Recommendation.	National	Telekom Slovenije	1- Non-discrimination 2- Prohibition of excessive price and cost orientation 3- Cost accounting	The Commission made **comments** on: **Remedies at retail level:** When carrying out the forthcoming review of the corresponding relevant wholesale market, it is necessary to assess the effectiveness of remedies to be imposed at wholesale level in addressing market failures at retail level. **Obligation to provide ADSL services not only to end-users who subscribe also to ISDN:** The remedy imposed (non-discrimination) would be more appropriate if it included a general prohibition to oblige end-users of fixed access products to subscribe to a particular type of access product under any circumstances unless it is technically necessary for the provision of a given service.

Market 3: Publicly available local and/or national telephone services provided at a fixed location for residential customers

Member State	Market definition similar to Recommendation	SMP found for	Remedies imposed				
			Carrier (Pre) Selection	Non-discrimination	Transparency	Price control / cost accounting	Accounting separation
Austria	YES	1 operator	NO	NO	NO	YES	YES
Finland	YES	43 operators**	YES	NO	YES	NO	NO
France	YES	1 operator	NO	YES	YES	YES	YES
Hungary	YES	5 operators	YES	NO	NO	NO	NO
Ireland	NO*	1 operator	YES	YES	YES	YES	YES
Portugal	YES	1 operator	NO	YES	YES	YES	YES
Sweden	YES	NO SMP FOUND					
United Kingdom	NO*	2 operators	NO	YES	YES	YES***	NO

** Refinement, broader/narrower market and/or merger of markets*
*** On local calls. No SMP for national calls.*
**** Differentiated or no remedy imposed on certain SMP operators*

Overview of notifications assessed until 30 September 2005

Market 3: Publicly available local and/or national telephone services provided at a fixed location for residential customers

Overview of notifications assessed until 30 September 2005

Case reference	Product Market Definition	Geographic Market Definition	SMP found for	Remedies Imposed	Results of Community Consultation
2003/0007, UK/2003/0008 and UK/2003/0045	Separation in local, national, calls to mobile phones and operator-assisted calls.	Separate markets: Hull area and UK outside Hull	Hull area: Kingston; UK outside Hull: BT	1 - Non-discrimination 2 – Transparency 3 - BT only: price control implying price freeze (adjusted for inflation) 4 - BT only: cost accounting	The Commission made **comments** on: **Reliance on comments from parties other than the Commission and other NRAs:** The Commission stresses the fact that any material modification to the notified draft measure will require the draft measure to be re-notified under Article 7(3) of the Framework Directive. **Markets defined more**

					narrowly than in the Recommendation on relevant markets: Oftel defined retail narrowband markets more narrowly than in the Recommendation on relevant markets. However, a broader market definition is not likely to lead to a different result of the SMP analysis. Consequently, a conclusion on the exact scope of the markets is not relevant in this specific context for the purposes of SMP assessment. **Publication of a statement concerning compliance with the cost accounting systems:** It is necessary for a statement concerning compliance with the cost accounting system to be published annually, following verification by a qualified independent body. **National consultation running in parallel with Article 7 consultation:** Any material modification to the draft measure as a consequence of comments made by interested parties in the framework of the national consultation will require the draft measure to be re-notified.

FI/2003/0022 and FI/2003/0023	Local and national calls are included in separate markets.	**National calls:** national market; **local calls:** regional markets	On **local calls** for the 43 regional operators. **No SMP found for national calls**	**On local calls:** 1 - Carrier(Pre)Selection 2 - Transparency (obligation to publish a reference offer)	The Commission made **comments** on: **National calls:** NRAs should assess whether effective competition is or is not a result of regulation in place and whether the status of competition is likely to be different in the absence of regulation. In this specific case, to what extent the competitive conditions could be different without CS/CPS-Regulation? **Local calls:** NRA's intention to impose more remedies on wholesale level: NRA does not sufficiently analyse how remedies on wholesale level would influence competition on retail level. Commission doubts that remedies at retail level are sufficient.
PT/2004/0055, PT/2004/59 and PT/2004/0091	Broadly similar to the Recommendation. Additionally a market for non-geographic (service) numbers. This additional	National	PT Group	1 - Transparency 2 - Non-discrimination 3 - Cost orientation (for geographic numbers only) and cost accounting	**No comments** made by the Commission.

	market includes both residential and non-residential customers.			4 - Accounting separation 5 - Price affordability (geographic numbers only) 6 -Numbering plan (non-geographic service numbers only)	
AT/2004/0127	Similar to the Recommendation, public payphones included.	National	Telekom Austria	1 - Cost orientation	**No comments** made by the Commission.
HU/2005/0132	Similar to the Recommendation. Public payphones and prepaid cards included.	Regional	5 regional operators: Matáv, Invitel Távközlési Szolgáltató, Hungarotel Távközlési, Emitel, Monor Telefon Társaság	1 - Carrier(Pre)Selection	The Commission made **comments** on: **Consideration of additional retail remedies:** In view of the continuing high market shares of the incumbents and their relatively high retail prices compared to EU best practices, the Commission invites NHH to consider whether the notified remedies (CS/CPS) over a given period are sufficient to address the market failure in the four retail calls markets under review. **Remedies imposed at retail level prior to analysing the corresponding wholesale markets:** The Commission

					reminds NHH that it should assess the effectiveness of remedies to be imposed at wholesale level in addressing market failures in the relevant retail markets. Should this review lead to a need to amend the retail remedies, particular attention should be paid to the possibility of a price or margin squeeze?
SE/2005/0149	Notification **withdrawn** by the NRA.				
SE/2005/195	Similar to the recommendation. Explicitly including IP-Telephony.	National	No SMP found, due to regulation in the wholesale and retail access markets	No remedies imposed	The Commission made a **comment** on: **Inclusion of IP-telephony in the notified markets:** PTS has included IP-telephony in the notified markets without supporting this conclusion by a substitutability analysis. When assessing whether IP-telephony services are part of any of the markets for publicly available fixed telephony services, national regulatory authorities must examine - taking national circumstances into account - the objective characteristics, prices and intended use of the IP-telephony services, as well as

<table>
<tr><td></td><td></td><td></td><td></td><td></td><td>their demand-side and supply side substitution with other fixed telephony services.</td></tr>
<tr><td rowspan="6">IE/2005/0160</td><td rowspan="6">Residential and non-residential together, public payphones excluded.</td><td rowspan="6">National</td><td rowspan="6">Eircom</td><td>1 - Carrier Access and Carrier (Pre) Selection</td><td rowspan="6">The Commission made a comment on:

Further consultations planned by ComReg: The Commission reminds ComReg that draft measures relating to the details and implementation of accounting separation and cost accounting obligations are required to be notified under Article 7(3) of the Framework Directive</td></tr>
<tr><td>2 - Access obligation</td></tr>
<tr><td>3 - Non-discrimination</td></tr>
<tr><td>4 - Transparency</td></tr>
<tr><td>5 - Accounting separation</td></tr>
<tr><td>6 - Cost orientation and cost accounting</td></tr>
<tr><td rowspan="2">FR/2005/0223</td><td rowspan="2">VoIP calls offered by access providers ("managed VOIP") are included, VOIP calls by non-access providers are <u>not</u> included in the market.</td><td rowspan="2">Metropolitan France and overseas territories except for the territory of Saint-Pierre-et-Miquelon</td><td rowspan="2">France Télécom</td><td>Remedies only for PSTN calls, no remedies for VOIP calls</td><td rowspan="2">The Commission made comments on:

Inclusion of managed IP-telephony in the notified calls markets: The Commission recalls that, when assessing whether IP-telephony services are part of any of the markets for publicly available fixed telephony services, national</td></tr>
<tr><td>1 - Prohibition of abusive bundling of access and call products</td></tr>
</table>

				2 - Prohibition of excessive or predatory pricing	regulatory authorities must examine - taking national circumstances into account - the objective characteristics, prices and intended use of the IP-telephony services, as well as their demand-side and supply side substitution with other fixed telephony services. The Commission believes that, in the present case the inclusion of managed IP-telephony (VoB) in the relevant retail calls markets is not inconsistent with the Recommendation. **Remedies and next market review:** The Commission considers that the decision not to extend PSTN obligations to VoB is justified. The Commission notes the existing wholesale remedies on markets 11 and 12 as well as ARCEP's commitment to monitor this part of the retail markets closely for any anti-competitive practices and considers that should such practices occur, ARCEP has the right and the obligation to intervene as appropriate. The Commission invites ARCEP to ensure full, effective and appropriate enforcement of the
				3 - Ex ante tariff information vis-a-vis the NRA	
				4 - Accounting separation	
				5 - Price control on fixed to mobile calls	

				6 - Non-discrimination	obligations imposed in markets 8 to 12 within the shortest possible timeframe, and accordingly to commit reviewing the present market analysis following such enforcement, in any case at an earlier timing than the proposed 2008 review.

Market 4: Publicly available international telephone services provided at a fixed location for residential customers

Member State	Market definition similar to Recommendation	SMP found for	Remedies imposed				
			Carrier (Pre) Selection	Non-discrimination	Transparency	Price control / cost accounting	Accounting separation
Austria	YES	NO SMP FOUND					
Finland	YES	NO SMP FOUND**					
France	YES	1 operator	NO	YES	YES	YES	YES
Hungary	YES	5 operators	YES	NO	NO	NO	NO
Ireland	NO*	1 operator	YES	YES	YES	YES	YES
Portugal	YES	1 operator	NO	YES	YES	YES	YES
Sweden	YES	NO SMP FOUND					
United Kingdom	NO*	2 operators	NO	YES	YES	YES***	NO

**Refinement, broader/narrower market and/or merger of markets*
*** At a prior notification the Commission issued a Veto on the Non-SMP-finding*
**** Differentiated or no remedy imposed on certain SMP operators*

Overview of notifications assessed until 30 September 2005

Market 4: Publicly available international telephone services provided at a fixed location for residential customers

Overview of notifications assessed until 30 September 2005

Case reference	Product Market Definition	Geographic Market Definition	SMP found for	Remedies Imposed	Results of Community Consultation
UK/2003/0007, UK/2003/0008 and UK/2003/0045	Separation (i) a market with competitive input at wholesale level ("category A") and (ii) many markets on a route-by-route basis with non-competitive input at wholesale level ("Category B"). Operator-assisted calls are not included (together	Separate markets: Hull area and UK outside Hull	Hull: Kingston; UK outside Hull: BT	1 - Non-discrimination	The Commission made **comments** on: **Reliance on comments from parties other than the Commission and other NRAs:** The Commission stresses the fact that any material modification to the notified draft measure will require the draft measure to be re-notified under Article 7(3) of the Framework Directive.

	with national calls a separate market, see market 3).			2 - Transparency 3 - BT only: price control implying price freeze (adjusted for inflation)	**Markets defined more narrowly than in the Recommendation on relevant markets:** Oftel defined retail narrowband markets more narrowly than in the Recommendation. However, a broader market definition along the lines of the Recommendation on relevant markets is not likely to lead to a different result of the SMP analysis. Consequently, a conclusion on the exact scope of the markets is not relevant in this specific context for the purposes of SMP assessment. **Finding of SMP in the IDD calls markets:** Oftel does not have sufficiently detailed market share information to calculate both residential and business market shares in each of the relevant IDD calls markets. However, the Commission considers the other, non market-share-related assumptions made regarding the finding of

				4 - BT only: cost accounting	significant market power to be convincing. In any event, in this particular case, the Commission does not consider that any measure concerning these markets would affect trade between Member States.
FI/2003/0024	Similar to the Recommendation.	National	No SMP	No remedies imposed	The Commission **vetoed** the draft measure based on: **Lack of evidence to support the finding of the absence of SMP:** Ficora has submitted neither sufficient facts nor sufficient reasoning to rebut the presumption of dominance in the presence of a market share in excess of 50%.Ficora failed to provide 1) any market data related to the exact degree of changes in market shares over the past years, 2) market data related to price levels and 3) market data related to other factors which are relevant to the assessment of market power. **Lack of consideration of**

					existing remedies: Ficora did not justify its conclusions in light of existing regulatory obligations, and did not consider what the outcome of the market analysis is likely to be in the absence of such obligations. Conversely, Ficora did not consider how the justification for existing regulatory obligations, which are imposed on undertakings in the same or other closely related markets, and which may have a substantial competitive effect on markets for publicly available international telephone services provided at a fixed location, would be affected by the conclusions of its market analyses.
FI/2005/0201	Similar to the Recommendation.	National	No SMP	No remedies imposed	**No comments** made by the Commission.
PT/2004/0057 and PT/2004/0091	Similar to the Recommendation.	National	PT Group	1 - Transparency 2 - Non-discrimination 3 - Cost orientation and cost accounting 4 - Accounting separation	**No comments** made by the Commission.

AT/2004/0125	Similar to the Recommendation. Public payphones and calling cards included.	National	No SMP: decreasing market share of the incumbent, low entry barriers	No remedies imposed	**No comments** made by the Commission.
HU/2005/0133	Similar to the Recommendation. Public payphones and prepaid cards included.	Regional	5 regional operators: Matáv, Invitel Távközlési Szolgáltató, Hungarotel Távközlési, Emitel, Monor Telefon Társaság	1 - Carrier(Pre)Selection	The Commission made **comments** on: **Consideration of additional retail remedies:** In view of the continuing high market shares of the incumbents and their relatively high retail prices compared to EU best practices, the Commission invites NHH to consider whether the notified remedies (CS/CPS) over a given period are sufficient to address the market failure in the four retail calls markets under review. **Remedies imposed at retail level prior to analysing the corresponding wholesale markets:** The Commission reminds NHH that it should assess the effectiveness of remedies to be imposed at wholesale level in addressing market failures in the relevant retail markets. Should this review lead to a need to amend the retail remedies, particular

					attention should be paid to the possibility of a price or margin squeeze?
SE/2005/0147	Notification **withdrawn** by the NRA.				
SE/2005/196	Similar to the Recommendation. Explicitly includes IP-Telephony.	National	No SMP found, due to regulation in the wholesale and retail access markets	No remedies imposed	The Commission made a **comment** on: **Inclusion of IP-telephony in the notified markets:** PTS has included IP-telephony in the notified markets without supporting this conclusion by a substitutability analysis. When assessing whether IP-telephony services are part of any of the markets for publicly available fixed telephony services,

					national regulatory authorities must examine - taking national circumstances into account - the objective characteristics, prices and intended use of the IP-telephony services, as well as their demand-side and supply side substitution with other fixed telephony services.
IE/2005/0161	Residential and non-residential in one market, public cell phones excluded.	National	Eircom	1 - Carrier Access and Carrier (Pre) Selection	The Commission made a **comment** on: **Further consultations planned by ComReg:** on details of cost accounting and accounting separation: Possible further measures must be notified to the Commission.
				2 - Access obligation	
				3 - Non-discrimination	
				4 - Transparency	

				5 - Accounting separation	
				6 - Cost orientation and cost accounting	
FR/2005/0224	VoiP calls offered by access providers ("managed VoiP") are included, VOIP calls by non-access providers are not included.	Metropolitan France and overseas territories except for the territory of Saint-Pierre-et-Miquelon	France Télécom	**Remedies only for PSTN calls, no remedies for VOIP calls**	The Commission made **comments** on: **Inclusion of managed IP-telephony in the notified calls markets:** The Commission recalls that, when assessing whether IP-telephony services are part of any of the markets for publicly available fixed telephony services, national regulatory authorities must examine - taking national circumstances into account - the objective characteristics, prices and intended use of the IP-telephony services, as well as their demand-side and supply side substitution with other fixed
				1 - Prohibition of abusive bundling of access and call products	
				2 - Prohibition of excessive or predatory pricing	

				3 - Ex ante tariff information vis-a-vis the NRA	telephony services. The Commission believes that, in the present case the inclusion of managed IP-telephony (VoB) in the relevant retail calls markets is not inconsistent with the Recommendation. **Remedies and next market review:** The Commission considers that the decision not to extend PSTN obligations to VoB is justified. The Commission notes the existing wholesale remedies on markets 11 and 12 as well as ARCEP's commitment to monitor this part of the retail markets closely for any anti-competitive practices and considers that should such practices occur, ARCEP has the right and the obligation to intervene as appropriate. The Commission invites ARCEP to ensure full, effective and appropriate enforcement of the obligations imposed in markets 8 to 12 within the shortest possible timeframe, and accordingly to commit reviewing the present market analysis following such enforcement, in any case at an earlier timing than the proposed 2008 review.
				4 - Accounting separation	
				5 - Price control on fixed to mobile calls	
				6 - Non-discrimination	

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Market 5 : Publicly available local and/or national telephone services provided at a fixed location for non-residential customers

Member State	Market definition similar to Recommendation	SMP found for	Remedies imposed				
			Carrier (Pre) Selection	Non-discrimination	Transparency	Price control / cost accounting	Accounting separation
Austria	YES	1 operator	NO	NO	NO	YES	YES
Denmark	YES	NO SMP FOUND					
Finland	YES	43 operators**	YES	NO	YES	NO	NO
France	YES	1 operator	NO	YES	YES	YES	YES
Hungary	YES	5 operators	YES	NO	NO	NO	NO
Ireland	NO*	1 operator	YES	YES	YES	YES	YES
Portugal	YES	1 operator	NO	YES	YES	YES	YES
Sweden	YES	NO SMP FOUND					
United Kingdom	NO*	2 operators	NO	YES	YES	YES***	NO

**Refinement, broader/narrower market and/or merger of markets*
*** On local calls. No SMP for national calls.*
**** Differentiated or no remedy imposed on certain SMP operators*

Overview of notifications assessed until 30 September 2005

Market 5: Publicly available local and/ or national telephone services provided at a fixed location for non - residential customers

Overview of notifications assessed until 30 September 2005

Case reference	Product Market Definition	Geographic Market Definition	SMP found for	Remedies Imposed	Results of Community Consultation
UK/2003/0007, UK/2003/0008	Separation between local, national, calls to mobile phones and operator-assisted calls.	UK excluding Hull area and Hull area	Hull: Kingston; UK excluding Hull: BT	1 - Non-discrimination 2 - Transparency 3 - BT only: price control implying price freeze (adjusted for inflation)	The Commission made **comments** on: **Reliance on comments from parties other than the Commission and other NRAs:** The Commission stresses the fact that any material modification to the notified draft measure will require the draft measure to be re-notified under Article 7(3) of the Framework Directive. **Markets defined more narrowly than in the Recommendation on relevant markets:** Oftel defined retail narrowband markets more narrowly than in the Recommendation on

				4 - BT only: cost accounting	relevant markets. However, a broader market definition is not likely to lead to a different result of the SMP analysis. Consequently, a conclusion on the exact scope of the markets is not relevant in this specific context for the purposes of SMP assessment.
UK/2004/0045 (further amended by cases UK/2005/0217-0218)	See Case UK/2003/0007-0008			Financial reporting obligations (in addition to the remedies imposed in Cases UK/2003/0007-0008).	The Commission made **comments** on: **Publication of a statement concerning compliance with the cost accounting systems:** It is necessary for a statement concerning compliance with the cost accounting system to be published annually, following verification by a qualified independent body. **National consultation running in parallel with Article 7 consultation:** Any material modification to the draft measure as a consequence of comments made by interested parties in the framework of the national consultation will require the draft measure to be re-notified.

FI/2003/0025 and FI/2003/0026	Local and national calls are included in separate markets.	**National calls** : national market; **local calls**: regional markets	**Local calls:** SMP for 43 regional operators. No SMP found for national calls.	**On local calls:** 1 - Users' right to a connection to fixed telephone network 2 - Obligation to publish standard agreement terms and tariff information on services	The Commission made **comments** on: **Relationship between existing regulation and finding of lack of SMP (national calls):** The Commission invites Ficora to consider what the competitive conditions in the defined markets would be like in the absence of an obligation to provide CS, CPS or their equivalent. The Commission also prompts Ficora to make explicitly clear in their final measures whether its findings rely principally on the existing regulatory obligations (i.e. CS and CPS for all types of calls) imposed as a result of a finding of SMP in the retail access and local calls markets. **Remedies at retail level (local calls):** Ficora does not impose any further regulatory obligations on SMP undertakings at retail level, in addition to CS/CPS and other

				3 - User's right to pre-selection / carrier pre-selection	non-SMP obligations based on the Universal Service Directive. Therefore, the Commission has doubts as to whether the notified remedies over a given period are sufficient to remedy potential market failure at retail level and, in view of the continuing high market shares, recommends that Ficora also consider appropriate additional regulatory measures at the retail level.
PT/2004/0056, PT/2004/59 and PT/2004/0091	Broadly similar to the Recommendation. Additionally, includes a market for non-geographic (service) numbers. This additional market includes both residential and non-residential customers.	National	PT Group	1 - Transparency 2 - Non-discrimination 3 - Cost orientation (geographic numbers only) and cost accounting 4 - Accounting separation 5 - Price affordability (geographic numbers only) 6 -Numbering plan (non-geographic service numbers only)	**No comments** made by the Commission.
AT/2004/0126	Similar to the Recommendation.	National	Telekom Austria	1 - Price control / Cost orientation 2- Accounting Separation	**No comments** made by the Commission.

HU/2005/0134	Similar to the Recommendation. Public payphones and prepaid cards included.	Regional	5 regional operators: Matáv, Invitel Távközlési Szolgáltató, Hungarotel Távközlési, Emitel, Monor Telefon Társaság	1 - Carrier(Pre)Selection	The Commission made **comments** on: **Consideration of additional retail remedies:** In view of the continuing high market shares of the incumbents and their relatively high retail prices compared to EU best practices, the Commission invites NHH to consider whether the notified remedies (CS/CPS) over a given period are sufficient to address the market failure in the four retail calls markets under review. **Remedies imposed at retail level prior to analysing the corresponding wholesale markets:** The Commission reminds NHH that it should assess the effectiveness of remedies to be imposed at wholesale level in addressing market failures in the relevant retail markets. Should this review lead to a need to amend the retail remedies, particular attention should be paid to the possibility of a price or margin squeeze?
SE/2005/0148	Notification **withdrawn** by the NRA				

SE/2005/197	Similar to the Recommendation. IP-Telephony explicitly included.	National	No SMP	No remedies imposed	The Commission made a **comment** on: **Inclusion of IP-telephony in the notified markets:** PTS has included IP-telephony in the notified markets without supporting this conclusion by a substitutability analysis. When assessing whether IP-telephony services are part of any of the markets for publicly available fixed telephony services, national regulatory authorities must examine - taking national circumstances into account - the objective characteristics, prices and intended use of the IP-telephony services, as well as their demand-side and supply side substitution with other fixed telephony services.
IE/2005/0162	No distinction between residential and non-residential markets.	National	Eircom	1 - Carrier Access and Carrier (Pre) Selection 2 - Access obligation 3 - Non-discrimination 4 - Transparency 5 - Accounting separation 6 - Cost orientation and cost accounting	The Commission made a **comment** on: **Further consultations planned by ComReg:** The Commission reminds ComReg that draft measures relating to the details and implementation of accounting separation and cost accounting obligations are required to be notified under Article 7(3) of the

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					Framework Directive.
DK/2005/0208	Similar to the Recommendation, VOIP excluded.	National	No SMP found: decreasing market share of the incumbent, falling prices, no significant entry barriers.	No remedies imposed	**No comments** made by the Commission.
FR/2005/0225	VoIP calls offered by broadband access providers ("managed VOIP") included in the product market.	Metropolitan France and overseas territories except for the territory of Saint-Pierre-et-Miquelon	France Télécom	**Remedies only for PSTN calls, no remedies for VOIP calls** 1 - Prohibition of abusive bundling of access and call products 2 - Prohibition of excessive or predatory pricing	The Commission made **comments** on: **Inclusion of managed IP-telephony in the notified calls markets:** The Commission recalls that, when assessing whether IP-telephony services are part of any of the markets for publicly available fixed telephony services, national regulatory authorities must examine - taking national circumstances into account - the objective characteristics, prices and intended use of the IP-telephony services, as well as their demand-side and supply side substitution with other fixed telephony services. The Commission believes that, in

				3 - Ex ante tariff information vis-a-vis the NRA 4 - Accounting separation 5 - Price control on fixed to mobile calls	the present case the inclusion of managed IP-telephony (VoB) in the relevant retail calls markets is not inconsistent with the Recommendation. **Remedies and next market review:** The Commission considers that the decision not to extend PSTN obligations to VoB is justified. The Commission notes the existing wholesale remedies on markets 11 and 12 as well as ARCEP's commitment to monitor this part of the retail markets closely for any anti-competitive practices and considers that should such practices occur, ARCEP has the right and the obligation to intervene as appropriate. The Commission invites ARCEP to ensure full, effective and appropriate enforcement of the obligations imposed in markets 8 to 12 within the shortest possible timeframe,

				6 - Non-discrimination	and accordingly to commit reviewing the present market analysis following such enforcement, in any case at an earlier timing than the proposed 2008 review.

Market 6: Publicly available international telephone services provided at a fixed location for non-residential customers

Member State	Market definition similar to Recommendation	SMP found for	Remedies imposed				
			Carrier (Pre) Selection	Non-discrimination	Transparency	Price control / cost accounting	Accounting separation
Austria	YES	1 operator	NO	NO	NO	YES	YES
Denmark	YES	NO SMP FOUND					
Finland	YES	NO SMP FOUND**					
France	YES	1 operator	NO	YES	YES	YES	YES
Hungary	YES	5 operators	YES	NO	NO	NO	NO
Ireland	NO*	1 operator	YES	YES	YES	YES	YES
Portugal	YES	1 operator	NO	YES	YES	YES	YES
Sweden	YES	NO SMP FOUND					
United Kingdom	NO*	1 operator	NO	YES	YES	NO	NO

**Refinement, broader/narrower market and/or merger of markets*
*** At a prior notification the Commission issued a Veto on the Non-SMP-finding*

Overview of notifications assessed until 30 September 2005

Market 6: Publicly available international telephone services provided at a fixed location for non-residential customers

Overview of notifications assessed until 30 September 2005

<table>
<tr><th>Case reference</th><th>Product Market Definition</th><th>Geographic Market Definition</th><th>SMP found for</th><th>Remedies Imposed</th><th>Results of Community Consultation</th></tr>
<tr><td rowspan="2">UK/2003/0007 and UK/2003/0008</td><td rowspan="2">Separation (i) a market with competitive input at wholesale level ("category A") and (ii) many markets on a route-by-route basis with non-competitive input at wholesale level ("Category B"). Operator-assisted calls are not included</td><td rowspan="2">Separate markets: Hull area and UK outside Hull</td><td rowspan="2">Hull area: Kingston; UK outside Hull: No SMP removal of existing obligations on BT</td><td>1 - Non-discrimination</td><td rowspan="2">The Commission made comments on:

Reliance on comments from parties other than the Commission and other NRAs: The Commission stresses the fact that any material modification to the notified draft measure will require the draft measure to be re-notified under Article 7(3) of the Framework Directive.</td></tr>
<tr><td>2 - Transparency</td></tr>
</table>

	(together with national calls a separate market, see market 3).				**Markets defined more narrowly than in the Recommendation on relevant markets:** Oftel defined retail narrowband markets more narrowly than in the Recommendation. However, a broader market definition along the lines of the Recommendation on relevant markets is not likely to lead to a different result of the SMP analysis. Consequently, a conclusion on the exact scope of the markets is not relevant in this specific context for the purposes of SMP assessment. **Finding of SMP in the IDD calls markets:** Oftel does not have sufficiently detailed market share information to calculate both residential and business market shares in each of the relevant IDD calls markets. However, the Commission considers the other, non market- share-related assumptions made regarding the finding of significant market power to be convincing. In any event, in this particular case, the Commission does not consider that any measure concerning these markets would affect trade between Member States.

FI/2003/0027	Similar to the Recommendation.	National	No SMP found	No remedies imposed	The Commission **vetoed** the draft measure based on: **Lack of evidence to support the finding of the absence of SMP:** Ficora has submitted neither sufficient facts nor sufficient reasoning to rebut the presumption of dominance in the presence of a market share in excess of 50%.Ficora failed to provide 1) any market data related to the exact degree of changes in market shares over the past years, 2) market data related to price levels and 3) market data related to other factors which are relevant to the assessment of market power. **Lack of consideration of existing remedies:** Ficora did not justify its conclusions in light of existing regulatory obligations, and did not consider what the outcome of the market analysis is likely to be in the absence of such obligations. Conversely, Ficora did not consider how the justification for existing regulatory obligations, which are imposed on undertakings in the same or other closely related markets, and which may have a substantial competitive effect on markets for publicly available international telephone services provided at a fixed location, would be affected by the conclusions of its market analyses.

FI/2005/0202	Similar to the Recommendation.	National	No SMP found	No remedies imposed	**No comments** made by the Commission.
PT/2004/0058 and PT/2004/0091	Similar to the Recommendation.	National	PT Group	1 - Transparency 2 - Non-discrimination 3 - Cost orientation and cost accounting 4 - Accounting separation	**No comments** made by the Commission.
AT /2005/0124	Similar to the Recommendation.	National	TA	1 - Cost orientation, ex-ante approval of tariffs 2 - Accounting separation	**No comments** made by the Commission.
HU/2005/0135	Similar to the Recommendation. Public payphones and prepaid cards included.	Regional	5 regional operators: Matáv, Invitel Távközlési Szolgáltató, Hungarotel Távközlési, Emitel, Monor Telefon Társaság	1 - Carrier(Pre)Selection	The Commission made **comments** on: **Consideration of additional retail remedies:** In view of the continuing high market shares of the incumbents and their relatively high retail prices compared to EU best practices, the Commission invites NHH to consider whether the notified remedies (CS/CPS) over a given period are sufficient to address the market failure in the four retail calls markets under review. **Remedies imposed at retail level prior to analysing the corresponding wholesale markets:** The Commission reminds NHH that it should assess the effectiveness of remedies to be imposed at wholesale level in addressing

					market failures in the relevant retail markets. Should this review lead to a need to amend the retail remedies, particular attention should be paid to the possibility of a price or margin squeeze?
SE/2005/0146	Notification **withdrawn** by the NRA.				
SE/2005/0198	Similar to the Recommendation. Explicitly includes IP-Telephony.	National	No SMP found, due to regulation in the wholesale and retail access markets.	No remedies imposed	The Commission made a **comment** on: **Inclusion of IP-telephony in the notified markets:** PTS has included IP-telephony in the notified markets without supporting this conclusion by a substitutability analysis. When assessing whether IP-telephony services are part of any of the markets for publicly available fixed telephony

					services, national regulatory authorities must examine - taking national circumstances into account - the objective characteristics, prices and intended use of the IP-telephony services, as well as their demand-side and supply side substitution with other fixed telephony services.
IE/2005/0163	Residential and non-residential in one market	National	Eircom	1 - Carrier Access and Carrier (Pre) Selection 2 - Access obligation 3 - Non-discrimination 4 - Transparency 5 - Cost orientation and cost accounting	The Commission made a **comment** on: **Further consultations planned by ComReg:** The Commission reminds ComReg that draft measures relating to the details and implementation of accounting separation and cost accounting obligations are required to be notified under Article 7(3) of the Framework Directive.
DK /2005/0194	Similar to the Recommendation. VOIP excluded.	National	No SMP found: decreasing market share of the incumbent, falling prices, no significant entry barriers.	No remedies imposed	**No comments** made by the Commission.

FR/2005/0226	VoIP calls offered by access providers ("managed VOIP") are included, VOIP calls by non-access providers are not included into the market.	Metropolitan France and overseas territories except for the territory of Saint-Pierre-et-Miquelon	France Télécom	**Remedies only for PSTN calls, no remedies for VOIP calls**	The Commission made **comments** on: **Inclusion of managed IP-telephony in the notified calls markets:** The Commission recalls that, when assessing whether IP-telephony services are part of any of the markets for publicly available fixed telephony services, national regulatory authorities must examine - taking national circumstances into account - the objective characteristics, prices and intended use of the IP-telephony services, as well as their demand-side and supply side substitution with other fixed telephony services. The Commission believes that, in the present case the inclusion of managed IP-telephony (VoB) in the relevant retail calls markets is not inconsistent with the Recommendation.
				1 - Prohibition of abusive bundling of access and call products	
				2 - Prohibition of excessive or predatory pricing	
				3 - Ex ante tariff information vis-a-vis the NRA	

				4 - Accounting separation	**Remedies and next market review:** The Commission considers that the decision not to extend PSTN obligations to VoB is justified. The Commission notes the existing wholesale remedies on markets 11 and 12 as well as ARCEP's commitment to monitor this part of the retail markets closely for any anti-competitive practices and considers that should such practices occur, ARCEP has the right and the obligation to intervene as appropriate. The Commission invites ARCEP to ensure full, effective and appropriate enforcement of the obligations imposed in markets 8 to 12 within the shortest possible timeframe, and accordingly to commit reviewing the present market analysis following such enforcement, in any case at an earlier timing than the proposed 2008 review.
				5 - Price control on fixed to mobile calls	
				6 - Non-discrimination	

Market 7: Minimum set of leased lines

Member State	Market definition similar to Recommendation	SMP found for	Remedies imposed				
			Supply of minimum set	Non-discrimination	Transparency	Price control / cost accounting	Accounting separation
Austria	NO*	1 operator	YES	YES	YES	YES	YES
Denmark	YES	1 operator	YES	YES	YES	YES	NO
Finland	YES	42 operators	YES	NO	NO	NO	NO
Hungary	YES	1 operator	YES	YES	YES	NO	NO
Ireland	YES	1 operator	YES	YES	YES	YES	YES
Portugal	NO*	1 operator	YES	YES	YES	YES	NO
Sweden	YES	1 operator	YES	YES	YES	YES	YES
United Kingdom	NO*	2 operators	YES	YES	YES	YES**	NO

** Refinement, broader/narrower market and/or merger of markets*
*** Differentiated or no remedy imposed on certain SMP operators*

Overview of notifications assessed until 30 September 2005

Market 7: The minimum set of leased lines

Overview of notifications assessed until 30 September 2005

Case reference	Product Market Definition	Geographic Market Definition	SMP found for	Remedies Imposed	Results of Community Consultation
UK/2003/0035-0036, UK/2004/0123 (modification of remedies)	Retail low bandwidth traditional interface leased lines (up to & incl. 8 Mbps).	UK excluding Hull area and Hull area	BT (UK excluding Hull), Kingston (Hull)	1- Supply minimum set of leased lines (BT & Kingston)	**No comments** made by the Commission.
				2 - Not to discriminate unduly (BT & Kingston)	
				3 - Cost orientation and cost accounting (only on BT)	
				4 - Publish reference offer (BT & Kingston)	
				5- Publish information on delivery and repair times (BT & Kingston)	

UK/2004/0045 (further amended in UK/2005/0217-0218)	See Cases **UK/2003/0035-0036.**	1 - Financial reporting obligations	The Commission made **comments** on: **Publication of a statement concerning compliance with the cost accounting systems:** It is necessary for a statement concerning compliance with the cost accounting system to be published annually, following verification by a qualified independent body. **National consultation running in parallel with Article 7 consultation:** Any material modification to the draft measure as a consequence of comments made by interested parties in the framework of the national consultation will require the draft measure to be re-notified.
UK/2004/0077	See Case **UK/2003/0035.**	1 - Amendments to the interim charge control obligation imposed on BT	**No comments** made by the Commission.
UK/2004/0123	See Case **UK/2003/0035.**	Slight modification of the remedies already notified because of the establishment of the Telecommunications Adjudicator.	**No comments** made by the Commission.

SE/2004/0048	Similar to the Recommendation.	National	TeliaSonera	1- Obligation to provide the minimum set of leased lines 2 - Non-discrimination 3 - Cost orientation 4 - Accounting separation 5 -Requirement to publish a reference offer, delivery conditions and technical information	**No comments** made by the Commission.
FI/2004/0079	Similar to the Recommendation.	Regional	42 local operators	1 - Obligation to provide the minimum set	The Commission made a **comment** on: **Regulatory obligations** reminding Ficora of the obligations set out in Annex VII of the Universal Service Directive requiring NRAs to ensure that the provision of the minimum set of leased lines referred to in Article 18 follows the basic principles of non-discrimination, cost orientation and transparency and asking Ficora to adapt its proposed remedies accordingly.
AT/2004/0097	Minimum set of retail leased lines + (i) all leased lines with a capacity of a multiple of 64 kbit/s up to an	National	Telekom Austria	**Minimum set of leased lines:** 1 - Provision of a minimum set of leased lines 2 - Cost orientation and cost accounting	**No comments** made by the Commission.

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	upper limit of 2048 bit/s; and (ii) unconnected copper double wire between network termination points, which have been leased by communications network and service operators			3 - Non discrimination 4 - Publication of information with regard to the minimum set 5 - Accounting separation **Other leased lines:** 1 - Cost orientation 2 - Approval of terms and conditions	
IE/2005/0137	Similar to the Recommendation.	National	Eircom	1 - Non discrimination 2 - Cost orientation (pricing model based on fully distributed historic costs) 3 - Transparency 4 - Cost accounting and accounting separation	The Commission made a **comment** on: **Further consultation planned by ComReg:** the draft measures relating to the details and implementation of accounting separation and cost accounting obligations are required to be notified under Article 7(3) of the Framework Directive.
PT/2005/0155	Minimum set of retail leased lines + services supported by symmetric xDSL	National	PT Group	1 - Non discrimination 2 - Transparency	**No comments** made by the Commission.

	technologies with capacity ≤ 2 Mbps			3 - Cost orientation and cost accounting	
HU/2005/0167	Similar to the Recommendation.	National	Matáv	1- Provision of the minimum set of leased lines based on non-discrimination and transparency principles	**No comments** made by the Commission.
DK/2005/0177	Similar to the Recommendation.	National	TDC	1 - Non discrimination 2 - Transparency 3 - Cost orientation and cost accounting (based on modified historic cost method)	**No comments** made by the Commission.

Market 8: Call origination on the public telephone network provided at a fixed location

Member State	Market definition similar to Recommendation	SMP found for	Remedies imposed				
			Access / interconnection	Non-discrimination	Transparency	Price control / cost accounting	Accounting separation
Austria	YES	1 operator	YES	YES	YES	YES	YES
Denmark	NO*	1 operator	YES	YES	YES	YES	YES
Finland	YES	46 operators	YES	YES	YES	YES**	YES**
France	YES	1 operator	YES	YES	YES	YES	YES
Germany	NO*	1 operator	YES	YES	NO	YES	NO
Hungary	YES	5 operators	YES	NO	YES	YES**	YES
Ireland	YES	1 operator	YES	YES	YES	YES	YES
Portugal	YES	1 operator	YES	YES	YES	YES	YES
Slovakia	YES	1 operator	YES	YES	YES	NO	YES
Sweden	YES	1 operator	YES	YES	YES	YES	YES
United Kingdom	YES	2 operators	YES	YES	YES	YES	YES

** Refinement, broader/narrower market and/or merger of markets*
*** Differentiated or no remedy imposed on certain SMP operators*

Overview of notifications assessed until 30 September 2005

Market 8 - Call origination on the public telephone network provided at a fixed location

Overview of notifications assessed until 30 September 2005

Case reference	Product Market Definition	Geographic Market Definition	SMP found for	Remedies Imposed	Results of Community Consultation
UK/2003/0011-0012	Similar to the Recommendation.	UK excluding Hull area and Hull area	BT (UK excluding Hull), Kingston (Hull)	1- Provide network access on reasonable request 2 - Non-discrimination 3 - Cost orientation of charges and cost accounting 4- Charge control 5 - Transparency 6 - Accounting separation 7 - Carrier (Pre) Selection and indirect access in relation to call origination 8 - Flat rate Internet access call origination (FRIACO) - only on BT	The Commission made **comments** on: **Reliance on comments from parties other than the Commission and other NRAs:** Any material modification to the notified draft measure will require the draft measure to be re-notified under Article 7(3) of the Framework Directive. **Flat rate Internet access call origination (FRIACO):** The Commission emphasises that in addition to remedy the lack of competition in the market identified, unmetered wholesale products, like FRIACO, may also be used for the provision of retail services other than the provision of unmetered

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					Internet access.
UK/2004/0045 (further amended in UK/2005/0217-0218)	See Cases **UK/2003/0011-0012.**			Financial reporting obligations (in addition to the remedies imposed in Cases UK/2003/0011-0012).	The Commission made **comments** on: **Publication of a statement concerning compliance with the cost accounting systems:** It is necessary for a statement concerning compliance with the cost accounting system to be published annually, following verification by a qualified independent body. **National consultation running in parallel with Article 7 consultation:** Any material modification to the draft measure as a consequence of comments made by interested parties in the framework of the national consultation will require the draft measure to be re-notified.
UK/2004/0071	See Case **UK/2003/0012.**			Provision of a CPS local calls option service by BT Wholesale	**No comments** made by the Commission.

UK/2004/0072	See Case **UK/2003/0012.**	Modifications to the charge control obligation already imposed on BT in case UK/2003/0012.	**No comments** made by the Commission.
UK/2004/0115 (amended by UK/2005/0180)	See Case **UK/2003/0012.**	Directions on BT's ability to use Cancel Other functionality (dispute resolution)	**No comments** made by the Commission.
UK/2004/0122	See Case **UK/2003/0012.**	Modifications to BT's charge control obligation (details of measurement of compliance)	**No comments** made by the Commission.
UK/2005/0165	See Case **UK/2003/0012.**	1- Revised charge control 2 - Amendments to the requirement (i) not to unduly discriminate and (ii) to notify charges, terms and conditions.	**No comments** made by the Commission.
UK/2005/0166	See Case **UK/2003/0012.**	1 - Modifications to the amounts that BT can charge for providing CPS facilities	**No comments** made by the Commission.

UK/2003/0013-0014 (wholesale exchange line markets)	Fixed narrowband wholesale exchange lines market: a new market.	UK excluding Hull area and Hull area	BT (UK excluding Hull), Kingston (Hull)	1 - Wholesale line rental - only on BT	The Commission made **comments** on: **Market definition for wholesale exchange line markets:** The Commission stated that more consideration could have been given to assessing potential merchant wholesale demand and supply (i.e. demand from, and supply to, independent purchasers of wholesale exchange lines). **Wholesale line rental (WLR):** The Commission considers that WLR may also be imposed as a retail remedy in the retail access markets, since it serves to introduce additional sources of competition at that level.
FI/2003/0028	Similar to the Recommendation.	Regional	46 local operators	**Asymmetrical regulation between 4 groups of operators** 1 - Access and interconnection	The Commission made **comments** on: **Geographic divide of the market for call origination:** The Commission invites Ficora to monitor the development of the market for signs of a common pricing constraint which may permit the delineation of larger

				2 - Publication of delivery terms and tariff information	geographic markets in the future. **Exemption from certain ex ante obligations:** The imposition of different remedies on different operators within similarly defined markets should be adequately reasoned. To the extent that it would be considered disproportionate to impose costly cost orientation and cost accounting obligations on a small operator, the Commission is of the view that other forms of cost control for such operators, such as benchmarking against the larger operators who are under a cost orientation obligation, could be considered. **Cost orientation and cost accounting obligations:** The Commission expresses concerns on the approach not to specify the method on which cost-orientation will be assessed, which it believes will limit the measure's contribution to consumer benefit, the enhancement of competition and the
				3 - Obligations concerning pricing and other terms (cost orientation and non discrimination)	
				4 - Cost accounting	
				5 - Accounting separation	

					development of the internal market.
SE/2004/0049	Similar to the Recommendation.	National		1 - Obligation to meet reasonable request for interconnection (including via direct connections), network access, network capacity 2 - Cost orientation and cost accounting 3 - Non-discrimination 4 - Accounting separation 5 - Transparency (reference offer)	**No comments** made by the Commission.
PT/2004/0060, PT/2004/0092 (remedies)	Similar to the Recommendation.	National	PT Group	1 - Transparency - publication of a reference offer, prices, terms and conditions, technical information and relating to the quality of service 2 - Non discrimination 3 - Accounting separation 4- Access on reasonable request	The Commission made **a comment** on: **Asymmetrical application of remedies:** The Commission invites the NRA to monitor closely the development of the cost structures of the operators on which the obligation to charge "fair and reasonable prices" is imposed and to assess whether its current

				5 - Cost orientation and cost accounting 6- Price control	assumptions on “fair and reasonable prices” will remain relevant over the period of the market review.
SK/2004/0103	Similar to the Recommendation.	National	Slovak Telekom	1 - Transparency (publication of reference offer, technical specifications); 2 - Non-discrimination 3 - Accounting separation 4 - Obligation to provide access to certain network components 5 - Carrier selection/carrier pre-selection (CS/CPS)	The Commission made **comments** on: **CS/CPS obligation and non-imposition of cost orientation in the wholesale market for call origination:** The Commission invites TÚSR to consider explicit imposition of cost orientation obligations in the wholesale call origination market. **National public consultation:** According to Article 6 of the Framework Directive NRAs must conduct a national consultation on each draft measure which have a significant impact on the relevant market, i.e. including the market definitions, and to give all interested parties the opportunity to comment on the draft measure.
AT/2004/0105	Similar to the Recommendation.	National	Telekom Austria	1 - Non-discrimination 2 - Publication of a reference	**No comments** made by the Commission.

				interconnection offer	
				3 - Cost orientation and cost accounting	
				4- Accounting separation	
				5 - Access on reasonable request	
DK/2005/0141	Wholesale access (connections) is included in the market for call origination on the public telephone network at a fixed location.	National	TDC	1 - Access to i) wholesale call origination, ii) wholesale purchase of services for resale, iii) co-location	The Commission made **a comment** on: **Inclusion of wholesale access connections in the product market definition:** The Commission expressed doubts that wholesale access forms part of the wholesale origination market (market 8). Access services are not substitutes but rather complementary to call origination services. In addition, the Commission noted that the proposed remedies do not necessarily require the delineation of a separate access market, since they may be imposed in respect of the call origination market alone.
				2 - Cost orientation and cost accounting	
				3 - Non-discrimination	
				4 - Reference offer	
				5 - Transparency	
				6 - Accounting separation	

DK/2005/0205 (modification of a remedy)	See case **DK/2005/0141.**			1 - Retail minus price regulation on Wholesale Line Rental	**No comments** made by the Commission.
DE/2005/0143 (market analysis), DE/2005/0233 (remedies)	Three separate markets for wholesale call origination: i) call origination for carrier (pre-) selection services; ii) call origination for value-added services and iii) call origination for dial-up internet services.	National	DT AG	1 - Access (including interconnection services, collocation) 2 - Non-discrimination 3 - Price control (in relation to interconnection, conveyance and collocation)	The Commission made **comments** on: **Remedies to be determined at a later stage:** The Commission reminded RegTP of the need to notify remedies in accordance with Article 7(3) of the Framework Directive. **Accounting separation:** Given the risk of cross-subsidisation arising from the operations of a vertically-integrated company, the Commission invites BNetzA for the purposes of enhancing transparency and legal certainty to consider imposing accounting separation as a separate measure.
HU/2005/0151	Similar to the Recommendation.	Regional	5 regional operators: Matáv, Invitel Távközlési	1 - Transparency (reference offer)	The Commission made a **comment** on: **The obligation of cost**

			Szolgáltató, Hungarotel Távközlési, Emitel, Monor Telefon Társaság	2 - Accounting separation 3 - Obligation related to access and interconnection 4 - Price control and cost-accounting	**orientation on the designated local incumbents:** The Commission was not convinced that the fact that, Invitel, Hungarotel, Emitel and Monortel would be entitled to set their origination charges at a level which cannot exceed by more than 40% would effectively contribute to further decrease the relevant retail charges.
IE/2005/0190	Similar to the Recommendation.	National	eircom	1 - Transparency 2 - Non-discrimination 3 - Provision of access to and use of specific network elements and associated facilities on reasonable request 4 - Price control and cost accounting 5 – Accounting separation	The Commission made a **comment** on: **Further consultation planned by ComReg:** The Commission reminds that draft measures relating to the details and implementation of accounting separation, cost accounting and wholesale price caps are required to be notified under Article 7(3) of the Framework Directive.
FR/2005/0227	Similar to the Recommendation. Includes also non-switching based interconnection (mainly IP).	Territory of metropolitan France, the French over-seas territories and	FT	1 - Access to, and use of specific network facilities 2 - Non-discrimination 3 - Transparency 4 - Accounting separation	**No comments** made by the Commission.

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		Mayotte		5 - Cost orientation and cost accounting	

Market 9: Call termination on individual public telephone network provided at a fixed location

Member State	Market definition similar to Recommendation	SMP found for	Remedies imposed				
			Access / Interconnection	Non-discrimination	Transparency	Price control / cost accounting	Accounting separation
Austria	YES	9 operators	YES**	YES**	YES**	YES**	YES**
Denmark	YES	6 operators	YES	YES**	YES**	YES**	YES**
Finland	YES	50 operators	YES	YES**	YES**	YES**	YES**
France	YES	21 operators	YES	YES	YES	YES**	YES**
Germany	YES	53 operators*	YES	YES	NO	YES	NO
Hungary	YES	8 operators	YES**	YES**	YES	YES**	YES**
Ireland	YES	12 operators	YES	YES	YES	YES**	YES**
Portugal	YES	8 operators	YES	YES	YES	YES**	YES
Slovakia	YES	1 operator	YES	YES	YES	YES	YES
Sweden	YES	22 operators	YES**	YES	YES**	YES**	YES**
United Kingdom	YES	63 operators	YES	YES**	YES**	YES**	YES**

** On 17 May 2005, the Commission vetoed draft measures by RegTP (now BNetzA) for not designating alternative network operators to have SMP. On 29 August 2005, BNetzA renotified draft measures designating the ANOs to have SMP. However, remedies notified so far cover only DT AG.*

*** Differentiated or no remedy imposed on certain SMP operators*

Overview of notifications assessed until 30 September 2005

Market 9 - Call termination on individual public telephone network provided at a fixed location

Overview of notifications assessed until 30 September 2005

Case reference	Product Market Definition	Geographic Market Definition	SMP found for	Remedies Imposed	Results of Community Consultation
UK/2003/0003	Operator-specific relevant markets.	Geographic coverage of each network = geographic extent of each relevant market	BT Kingston 61 other alternative network operators ("ANO")	1 - Provision of call termination on reasonable request (on **all**) 2 - Cost orientation of call termination charges (LRIC) and cost accounting (**on BT and Kingston**) 3 - Accounting separation (on **BT and Kingston**) 4 - Non-discrimination (on **BT and Kingston**) 5 - Publication of a reference interconnection offer (RIO) (on **BT and Kingston**) 6 - Notification of new charges 90 days before changes become effective (on **BT and Kingston**) 7 - Call termination charge control setting the annual ceiling for charges at retail price index (RPI) increases less 10% (RPI –10) (on **BT**)	The Commission made a **comment** on: **BT's countervailing buyer power:** The Commission notes that a detailed assessment of the competitive effects of obligations to be imposed on BT as a result of finding BT to have SMP is important for the finding that all other PECNs have SMP as well.

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UK/2004/0045 (further amended by cases UK/2005/0217-0218)	See Case **UK/2003/0003.**			Financial reporting obligations (in addition to the remedies imposed in Cases UK/2003/003).	The Commission made **comments** on: **Publication of a statement concerning compliance with the cost accounting systems:** It is necessary for a statement concerning compliance with the cost accounting system to be published annually, following verification by a qualified independent body. **National consultation running in parallel with Article 7 consultation:** Any material modification to the draft measure as a consequence of comments made by interested parties in the framework of the national consultation will require the draft measure to be re-notified.
UK/2004/0072	See Case **UK/2003/0003.**			Modifications to BT's charge control obligation	**No comments** made by the Commission
UK/2004/0122	See Case **UK/2003/0003.**			1 - Modifications to BT's charge control obligation (details of measurement of compliance)	**No comments** made by the Commission.

UK/2005/0165	See Case **UK/2003/0003.**			1- Revised charge control 2 - Amendments to the requirement (i) not to unduly discriminate and (ii) to notify charges, terms and conditions.	**No comments** made by the Commission.
FI/2003/0029	Operator-specific relevant markets.	Geographic coverage of each network = geographic extent of each relevant market	50 SMP operators	**Asymmetrical regulation between 4 groups of operators** 1 -Provision of interconnection 2 - Publication of delivery terms and tariff information 3 - Obligations concerning pricing and other terms (cost-orientation and non discrimination) 4 - Cost accounting 5 - Accounting separation	The Commission made **comments** on: **Exemption from certain ex ante obligations:** The impositions of different remedies on different operators within similarly defined markets should be adequately reasoned. To the extent that it would be considered disproportionate to impose costly cost orientation and cost accounting obligations on a small operator, the Commission is of the view that other forms of cost control for such operators, such as benchmarking against the larger operators who are under a cost orientation obligation, could be considered. **Cost orientation and cost accounting obligations:** The Commission expresses concerns on the approach not to specify the method on which cost orientation will be assessed, which it believes will limit the measure's contribution to consumer benefit, the enhancement

					of competition and the development of the internal market.
IE/2004/0050	Operator-specific relevant markets.	Geographic coverage of each network = geographic extent of each relevant market	22 SMP operators	1 - Access and interconnection: meet reasonable request of access & interconnection (**all operators**); meet reasonable request for a direct billing agreement (**all operators**); meet reasonable request for interconnection via direct connections (**TeliaSonera, Tele2, Telenor**); meet reasonable request for access to network capacity (**only TeliaSonera**) 2 - Price regulation: cost oriented pricing (**TeliaSonera**); to charge reasonable & fair prices (**others**) 3 - Non-discrimination 4 - Accounting separation: accounting separation and obligation to submit separated accounts to PTS annually or on PTS' request (**TeliaSonera, Tele2, Telenor)**; obligation to submit separated accounts to	**No comments** made by the Commission.

				PTS on its request (**others**);	
				5 - Transparency: publish reference offer (**TeliaSonera**); compile and publish information necessary for interconnection, direct connections and direct billing purposes (**Tele2, Telenor**); compile and publish information necessary for interconnection and direct billing agreements (**others**)	
PT/2004/0061, PT/2004/0092 (remedies)	Operator-specific relevant markets.	Geographic coverage of each network = geographic extent of each relevant market	PT Group Cabovisão Coltel Jazztel Novis Telecom OniTelecom Refer Telecom Vodafone Telecel	1 - Transparency 2 - Non Discrimination 3 - Accounting separation 4 - Access on reasonable request 5 - Cost orientation and cost accounting	The Commission made a **comment** on: **Asymmetrical application of remedies:** The Commission invites ANACOM to monitor closely the development of the cost structures of the operators on which the obligation to charge "fair and reasonable prices" is imposed and to assess whether its current assumptions on "fair and reasonable prices" will remain relevant over the period of the market review.
SK/2004/0102, SK/2005/0187 (further details of a	Operator-specific relevant markets.	Geographic coverage of each network = geographic	Slovak Telecom	1 - Transparency (technical specifications)	The Commission made **comments** on**:** **Implementation of the proposed**

remedy)		extent of each relevant market		2 - Non-discrimination ; 3 - Transparency 3 - Accounting separation 4 - Obligation to provide access to certain network components 5 - Cost orientation based on LRAIC	**cost orientation obligation in the call termination market:** The Commission invited TÚSR to notify pursuant to Article 7(3) of the framework Directive these implementing draft measures setting out the timeframe and stages applicable for the reduction of termination charges. By notification SK/2005/0182 TÚSR notified these measures. **National public consultation:** According to Article 6 of the Framework Directive NRAs must conduct a national consultation on each draft measure which has a significant impact on the relevant market, i.e. including the market definitions, and to give all interested parties the opportunity to comment on the draft measure.
AT/2004/0106	Operator-specific relevant markets.	Geographic coverage of each network = geographic extent of each relevant market	Telekom Austria AG Information-Technologie Austria GmbH Colt Telecom Austria GmbH Tele.ring Telekom Service GmbH Telekabel Wien GmbH	**Telekom Austria:** 1 - Non Discrimination 2 -Publication of a Reference Interconnection Offer (“RIO”)	**No comments** made by the Commission.

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			eTel Austria AG Equant Austria GmbH UTA Telekom AG LIWEST Kabelmedien GmbH	3 -Accounting separation 4 -Access on reasonable request	

DE/2005/0144 (market analysis),	Operator-specific relevant markets.	Geographic coverage of each network = geographic extent of each relevant market	No SMP for alternative networks operators ("ANO"s) because of claimed countervailing buyer power by DT AG		The Commission **vetoed** the draft measures concerning ANOs: **No justification for the considered strict Greenfield approach:** Any Greenfield approach must ensure that absence of SMP is only found and regulation only rolled back where markets have become sustainably competitive, and not where the absence of SMP is precisely the result of the regulation in place. This implies that regulation which will continue to exist throughout the period of the forward-looking assessment independently of a SMP finding on the market concerned, must be taken into account. **No convincing evidence of absence of SMP under the so-called "modified Greenfield approach":** RegTP asserts that DTAG's buyer power limits the ability of each ANO to behave independently of its customers and competitors (at the retail level). RegTP does, however, not present concrete evidence that DTAG has effectively exercised such buyer power. In view of DTAG's own termination rates being regulated and given that it cannot realistically threaten to stop purchasing termination services, DTAG would therefore be deprived of any bargaining tool in the form of a corresponding increase in its own tariffs when negotiating termination rates on that ANO's network. For the above reasons, the Commission considers that also under the modified Greenfield approach,

DE/2005/0234 (remedies)			DT AG	**DT AG**: 1 - Access (including interconnection services, collocation) 2 - Non-discrimination 3 - Price control (in relation to interconnection, conveyance and collocation)	Commission made **comments** on: **Remedies to be determined at a later stage:** The Commission reminded RegTP of the need to notify remedies in accordance with Article 7(3) of the Framework Directive. **Accounting separation:** Given the risk of cross-subsidisation arising from the operations of a vertically-integrated company, the Commission invites BNetzA for the purposes of enhancing transparency and legal certainty to consider imposing accounting separation as a separate measure.
DE/2005/0239 (market analysis, renotification following a veto in case DE/2004/0144)	Operator-specific relevant markets.	Geographic coverage of each network = geographic extent of each relevant market	52 ANOs	Remedies not yet notified	**No comments** made by the Commission.
HU/2005/0152	Operator-specific relevant markets.	Geographic coverage of each network = geographic extent of each relevant market	Matáv Invitel Hungarotel Emitel Monortel Pantel GTS Datanet BT	**Matáv, Inivitel, Hungarotel, Emitel and Monortel:** 1 - Transparency (reference offer) 2 - Accounting separation 3 - Access and interconnection 4 - Price control (4 operators are authorised to set their termination charges up to 40%	The Commission made a **comment** on: **The obligation of cost orientation on the designated local incumbents:** The Commission is not fully convinced that allowing for the four local incumbents to charge 40% higher termination charges than Matáv (and therefore, the possibility

				higher than the level of the termination charges of Matáv) 5 - Cost accounting **Pantel, GTS Datanet and BT:** 1 – Transparency 2 - Non discrimination	for not submitting a LRIC-based cost model) would effectively contribute to further decrease the relevant wholesale charges**.**
DK/2005/0171	Notification **withdrawn** by the NRA				
DK/2005/0207	Operator-specific relevant markets. The market definition includes dial-up internet calls to geographic numbers on PSTN or ISDN with a speed of up to 128 Kbit/s.	Geographic coverage of each network = geographic extent of each relevant market	TDC TeliaSonera Sonofon Consorte Danmark Tele2 Colt Telecom	**TDC:** 1- Access (requirement to provide network access at reasonable request) 2 - Cost orientation (LRAIC) and cost accounting 3 - Accounting separation 4 - Non-discrimination 5 - Publication of a reference offer 6 - Transparency **Others:** Obligation to provide network access on fair and reasonable terms at reasonable request	The Commission made a **comment** on: **Asymmetric application of remedies:** Where it is intended to impose different remedies on different operators within similarly defined markets, the asymmetrical application of remedies should be adequately reasoned. The Commission is of the view that NITA has not duly substantiated its intended decision not to impose certain obligations on the ANOs, e.g. non-discrimination. Consequently, the Commission would invite NITA to reconsider its position on this matter.

IE/2005/0191	Operator-specific relevant markets.	Geographic coverage of each network = geographic extent of each relevant market	eircom Access Telecom Budget Telecom Cable & Wireless Chorus Communications Colt Telecom Energis BT Ireland MCI NTL Swift Call Centre Talk Telecom	1 - Transparency (**all**) 2 - Non-discrimination (**all**) 3 - Requirement to provide access to and use of specific network facilities on reasonable request (**all**) 4 - Price control (**eircom:** FL-LRIC, **others**: benchmarking) 5 - Cost-accounting (**eircom**)	The Commission made a **comment** on: **Further consultation planned by ComReg:** The Commission reminds that draft measures relating to the details and implementation of accounting separation, cost accounting and wholesale price caps are required to be notified under Article 7(3) of the Framework Directive.
FR/2005/0228	Operator-specific relevant markets.	Geographic coverage of each network = geographic extent of each relevant market	FT + 20 ANOs	**FT:** 1 - Access and interconnection 2 - Non-discrimination 3 - Transparency 4 - Prohibition of excessive pricing	The Commission made **comments** on: **The exclusion of termination to non-geographic numbers from market analysis:** ARCEP should conduct, as soon as possible, a market analysis pursuant to Article 16 of the Framework Directive with regard to call termination to non-geographic numbers of non-ISP end users. **Asymmetric imposition of pricing**

				5 – Cost-orientation and cost accounting (LRAIC)	**related remedies:** The impositions of different remedies on different operators within similarly defined markets should be adequately reasoned. To the extent that it would be considered disproportionate to impose costly cost orientation and cost accounting obligations on a small operator, the Commission is of the view that other forms of cost control for such operators, such as benchmarking against the larger operators who are under a cost orientation obligation, could be considered.
				ANOs:	
				1 – Access and interconnection	
				2 – Non-discrimination	
				3 - Transparency	
				4 – Prohibition of excessive pricing	

Market 10: Transit services in the fixed public telephone network

Member State	Market definition similar to Recommendation	SMP found for	Remedies imposed				
			Access / interconnection	Non-discrimination	Transparency	Price control / cost accounting	Accounting separation
Austria	NO**	No SMP found*- VETOED					
Finland	YES	14 operators	YES	YES	YES	NO	NO
France	YES	1 operator	YES	YES	YES	YES	YES
Germany	NO**	1 operator	YES	YES	NO	YES	NO
Hungary	YES	No SMP found					
Ireland	YES	1 operator	YES	YES	YES	YES	YES
Portugal	YES	No SMP found					
Sweden	YES	1 operator	YES	YES	YES	YES	YES
United Kingdom	NO**	1 operator	YES	YES	YES	YES	YES

** On 20 October 2004, the Commission vetoed this draft measure*

*** Refinement, broader/narrower market and/or merger of markets*

Overview of notifications assessed until 30 September 2005

Market 10: Transit services in the fixed public telephone network

Overview of notifications assessed until 30 September 2005

Case reference	Product Market Definition	Geographic Market Definition	SMP found for	Remedies Imposed	Results of Community Consultation
UK/2003/0015-16	Local tandem conveyance and transit on fixed public narrowband networks (Case **UK/2003/0015**) and market for transit services on fixed public narrowband networks (**UK/2003/0016**).	National (excluding the Hull area)	BT	1 - Provision of network Access on reasonable request. 2 - Non-discrimination 3 - Cost-orientation and cost accounting 4 - Charge control 5 - Transparency 6 - Accounting separation.	The Commission made a **comment** on: **Reliance on comments from parties other than the Commission and other NRAs:** Any material modification to the notified draft measure will require the draft measure to be re-notified under Article 7(3) of the Framework Directive.

UK/2004/0045 (further amended by cases UK/2005/0217-0218)	See Cases **UK/2003/0015-0016.**	Financial reporting obligations (in addition to the remedies imposed in Cases UK/2003/0015-0016).	The Commission made **comments** on: **Publication of a statement concerning compliance with the cost accounting systems:** It is necessary for a statement concerning compliance with the cost accounting system to be published annually, following verification by a qualified independent body. **National consultation running in parallel with Article 7 consultation:** Any material modification to the draft measure as a consequence of comments made by interested parties in the framework of the national consultation will require the draft measure to be re-notified.
UK/2004/0072	See Cases **UK/2003/0015-0016.**	Modifications to the charge control obligation already imposed on BT in cases UK/2003/0015-0016.	**No comments** made by the Commission.
UK/2005/0164-0165	See Cases **UK/2003/0015-0016**	In relation to the market for ITC/ITT services, all SMP obligations imposed previously on BT were withdrawn	**No comments** made by the Commission.

				In the market for LTC/LTT services previous obligations are maintained (see cases UK/2003/0015-0016). In addition, the following amendments to previous obligations were made:	
				1- Revised charge control	
				2 - Amendments to the requirement (i) not to unduly discriminate and (ii) to notify charges, terms and conditions.	
FI/2004/0043		12 separate local transit markets and one market for nationwide transit services	National transit: not analysed	1 - Interconnection	The Commission declared the notification **incomplete** on the following grounds: The analysis presented by Ficora was not sufficiently reasoned for the purposes of allowing the Commission to carry out its tasks, and to evaluate the notified draft measures. The notification lacked the appropriate argumentation for excluding national transit traffic from the market analysis.
			Following SMP operators in local transit markets:	2 - Obligation to publish delivery terms and tariff information	

			Auria Networks Oy, Elisa Oy, Kesnet Oy, KPY Verkot Oy, Kymen Puhelin Oy, Länsilinkki Oy, Mikkelin Puhelin Oy, Oulun Puhelin Oy, Satakunnan Puhelin Oy, Sonera Carrier Networks Oy, Soon Net Oy, Telepohja Oy, Tikka Networks Oy, Vaasan Läänin Puhelin Oy	3 - Non-discrimination obligations concerning pricing and other terms	
FI/2004/0075	Similar to the Recommendation.	12 separate local transit markets and one market for nationwide	Auria Networks Oy, Elisa Oy, Kesnet Oy, KPY Verkot Oy, Kymen Puhelin	1 - Interconnection	**No comments** made by the Commission.

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		transit services	Oy, Länsilinkki Oy, Mikkelin Puhelin Oy, Oulun Puhelin Oy, Satakunnan Puhelin Oy, Sonera Carrier Networks Oy, Soon Net Oy, Telepohja Oy, Tikka Networks Oy, Vaasan Läänin Puhelin Oy	2 - Obligation to publish delivery terms and tariff information 3 - Non-discrimination obligations concerning pricing and other terms	
SE/2004/0051	Similar to the Recommendation.	National	TeliaSonera Sverige AB	1 - Obligation to meet reasonable requests for interconnection 2 - Cost-orientation 3 - Non-discrimination 4 - Accounting separation 5 - Transparency (reference offer) 6 - Obligation to meet reasonable requests for direct billing and cascade billing agreements	The Commission made a **comment** on: **National consultation run in parallel with Article 7 consultation:** Any material modification to the draft measure as a consequence of comments made by interested parties in the framework of the national consultation will require the draft measure to be re-notified.
AT/2004/0090	Market including self-supply through direct	National	No SMP found	No remedies were imposed	The Commission issued a **veto** decision, on the following grounds: insufficient evidence for

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	interconnection.				the inclusion of self-provision through direct interconnection in the market, results of the market analysis and on the importance of applying a thorough greenfield analysis.
DE/2005/0145, DE/2005/0235 (remedies)	Five separate markets for transit services: i) transit services in the fixed public telephone network plus call origination for carrier (pre-) selection services; ii) transit services in the fixed public telephone network plus origination of calls to value-added services; iii) transit services in the fixed public telephone network plus call origination for dial-up internet services; iv) transit services in the fixed public telephone network plus call	National	Deutsche Telekom AG	1 - Access (including interconnection services, collocation)	In case DE/2005/0145, the Commission made a **comment** with regard to the determination of remedies at a later stage.
			No SMP was found in the market for transit services in the fixed public telephone network for calls originating and terminating in national mobile networks, i.e., market 5.	2 - Non-discrimination	In case DE/2005/0235, the Commission made a **comment** on:
				3 - Price control (in relation to interconnection, conveyance and collocation)	**Accounting separation:** Given the risk of cross-subsidisation arising from the operations of a vertically- integrated company, the Commission invites BNetzA for the purposes of enhancing transparency and legal certainty to consider imposing accounting separation as a separate measure.

	termination in national networks excepting calls originating and terminating in national mobile networks and v) transit services in the fixed public telephone network for calls originating and terminating in national mobile networks.				
HU/2005/0153	Similar to the Recommendation.	National	No SMP found	No remedies were proposed	**No comments** made by the Commission.
IE/2005/0192	Similar to the Recommendation.	National (international transit services are distinguished from the market for national transit services)	Eircom	1 - Transparency 2 - Non-discrimination 3 - Access to and use of specific network facilities on reasonable request 4 - Price control and cost accounting 5 - Accounting separation	The Commission made a **comment** on: **Further consultations planned by ComReg:** The draft measures relating to the details and implementation of the obligations of cost accounting, accounting separation and wholesale price caps are required to be notified under Article 7(3) of the Framework Directive.

PT/2005/0154	Similar to the Recommendation.	National	No SMP found	No remedies were imposed	The Commission **commented** that the elements provided by Anacom to find that the relevant market would not meet the three criteria test should be further developed. Irrespective of whether, as a result of the three criteria test, the Portuguese market for transit services in the fixed public networks could be found to be susceptible to ex ante regulation, the market analysis in this particular case would still not have led to a finding of SMP.
FR/2005/0229	Similar to the Recommendation.	National	France Télécom	1 - Access to, and use of specific network facilities	**No comments** made by the Commission.
				2 - Non discrimination	
				3 - Transparency	
				4 - Accounting separation	

				5 - Price control and cost accounting obligations	

Market 11: Wholesale unbundled access (including shared access)

Member State	Market definition similar to Recommendation	SMP found for	Remedies imposed				
			Access / interconnection	Non-discrimination	Transparency	Price control / cost accounting	Accounting separation
Austria	YES	1 operator	YES	YES	YES	YES	YES
Denmark	YES	1 operator	YES	YES	YES	YES	YES
Finland	YES	44 operators	YES	YES**	YES	YES**	YES**
France	YES	1 operator	YES	YES	YES	YES	YES
Germany	YES	1 operator	YES	YES	YES	YES	NO
Hungary	YES	5 operators	YES	YES	YES	YES	YES
Ireland	YES	1 operator	YES	YES	YES	YES	YES
Portugal	YES	1 operator	YES	YES	YES	YES	YES
Slovakia	YES	1 operator	YES	YES	YES	YES	YES
Slovenia	YES	1 operator	YES	YES	YES	YES	YES
Sweden	YES	1 operator	YES	YES	YES	YES	NO
United Kingdom	NO*	2 operators	YES	YES	YES	YES	YES**

** Includes cable connections.*

*** Differentiated or no remedy imposed on certain SMP operators*

Overview of notifications assessed until 30 September 2005

Market 11: Wholesale unbundled access (including shared access) to metallic loops and sub-loops for the purpose of providing broadband and voice services

Overview of notifications assessed until 30 September 2005

Case reference	Product Market Definition	Geographic Market Definition	SMP found for	Remedies Imposed	Results of Community Consultation
FI/2003/0030	Similar to the Recommendation.	44 local markets	44 former local monopolies	1 - Obligation to lease part of a local loop and equipment facilities (on all SMP operators) 2 - Obligation to publish delivery terms and tariff information (on all SMP operators) 3 - Obligation concerning pricing and other terms (cost orientation and non-discrimination) (on certain SMP operators) 4 - Cost accounting procedures (on certain SMP operators)	The Commission made **comments** on: **Imposition of remedies:** Where Ficora intends to impose different remedies on different operators within similarly defined markets the reasons for such differential treatment should be adequately reasoned. Further, Ficora should monitor market developments. **Cost orientation and cost accounting obligations:** The Commission expresses

				5 - Accounting separation (on certain SMP operators)	concerns on the approach not to specify the method on which cost orientation will be assessed, which it believes will limit the measure's contribution to consumer benefit, the enhancement of competition and the development of the internal market.
IE/2004/0046	Similar to the Recommendation.	National	eircom	1 - Access obligations	The Commission made **comments** on: **Costing methodology for the implementation of the cost orientation obligation:** In view of the relatively high prices and low penetration rate of LLU in Ireland, ComReg was invited to monitor market developments carefully, and especially (i) how the implementation of the proposed forward-looking long run incremental cost methodology would be more effective at addressing the lack of effective competition in the provision of fully unbundled lines, shared lines, collocation
				2 - Non discrimination	
				3 - Transparency	

				4 - Accounting separation 5 - Price control and cost accounting	and associated facilities, than the current obligation of fully distributed costs and (ii) how and to what extent these would positively impact on the level of prices and the numbers of fully unbundled and shared access lines in Ireland. **National consultation running in parallel with Article 7 consultation:** Any material modification to the draft measure as a consequence of comments made by interested parties in the framework of the national consultation will require the draft measure to be re-notified.
SE/2004/0084	Similar to the Recommendation.	National	TeliaSonera AB	1 - Access obligation 2 - Cost orientation (LRIC) and cost accounting 3 - Non-discrimination 4 - Transparency (reference offer)	**No comments** made by the Commission.
UK/2003/0094	The wholesale local access market, in addition to traditional copper local loops also including	2 separate markets (the UK excluding the Hull area and respectively	BT (UK excluding the Hull area) and Kingston (the Hull area)	1 - Provision of access on reasonable request	The Commission made a **comment** on: **Product market definition, including both copper loop-based and cable-based**

	cable connections.	the Hull area)		2 - Non-discrimination	**wholesale local accesses:** When including cable-based wholesale services in the relevant market, consideration should be given to the technical, practical and economic feasibility for cable operators to offer facilities equivalent to unbundled local loops. The indirect pricing constraint stemming from the substitutability at the retail level and the potential competition of cable-based wholesale local access could have been taken into account at the stage of assessment of SMP. Notwithstanding, while this approach may have led to a narrower market definition and there remain doubts as to whether cable-based wholesale products (whether currently or prospectively) form part of the market, the exclusion of cable-based wholesale services from the market definition in this particular case would not have led to a different result in the SMP analysis. Consequently, a conclusion on the exact scope of the market was not relevant for the SMP assessment.
				3 - Cost orientation and cost accounting	
				4 - Transparency	
				5 - Collocation	
				6 - Accounting separation (on BT only	

UK/2004/0123	See Case **UK/2003/0094.**			Slight modification of the remedies already notified because of the establishment of the Telecommunications Adjudicator.	**No comments** made by the Commission.
AT/2004/0098	Similar to the Recommendation.	National	Telekom Austria	1 - Provision of access to metallic loops and sub-loops on reasonable request by a third party 2 - Publication of a Reference Unbundling Offer within one month of issue of TKK's decision 3 - Cost-oriented prices according to the cost of efficient service provision 4 - Non-discrimination 5 - Accounting separation 6 - Cost accounting providing for the cost of efficient service provision	**No comments** made by the Commission.
SK/2004/0107	Similar to the Recommendation.	National	Slovak Telecom	1 - Transparency (including the publication of technical specifications)	The Commission made **comments** on: **Implementation of the proposed cost orientation**

				2 - Non-discrimination 3 - Accounting separation 4 - Access to, and use of, specific network facilities 5 - Price control, including the obligation of cost-orientation	**obligation:** As TÚSR failed to provide adequate transparency and legal certainty for market players by specifying the details of the proposed cost orientation obligation, the Commission had concerns as to whether the proposed price control obligation will be effective at addressing the lack of effective competition in the relevant market, and requested that once adopted, TÚSR will notify the relevant implementing measures. **National public consultation:** NRAs must conduct a national consultation on each draft measure taken in accordance with the Framework Directive or the Specific Directives which have a significant impact on the relevant market.
PT/2004/0117	Similar to the Recommendation.	National	PT Comunicações	1 - Provide access to and use of specific network facilities 2 - Non-discrimination 3 - Transparency	The Commission made a **comment** on: **Costing methodology for the implementation of the price control obligation:** Anacom was invited to follow market developments carefully and to assess whether a forward

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				4 - Accounting separation 5 - Price control and cost accounting 6 - Provide accounting information	looking approach long-run incremental cost model would not be more appropriate than the fully distributed historic costs model, originally proposed by ANACOM.
DE/2004/0119, DE/2005/0150 (remedies)	The wholesale market for unbundled access (including shared access) to metallic loops and sub-loops for the purpose of providing broadband and voice services, also including unbundled access	National	Deutsche Telekom	1 - Fully unbundled access to the local loop in the form of a copper pair and shared access	In case **DE/2004/0119**, the Commission made **comments** on: **Consideration of fibre glass connections to end-users:** Relying on the Recommendation and the SMP Guidelines, RegTP excluded fibre glass connections from the scope of the relevant market (and thus from the market analysis). However, to

	to local loops on the basis of OPAL and ISIS2 at the main distribution frame or subloops.			2 - Bundled access to the local loop in the form of a copper pair at the main distribution frame, including to the OPAL/ISIS variant	the extent that fibre glass connections can be used to offer wholesale unbundled access to local loops and sub-loops for the purposes of providing broadband and voice services, like metallic loops and sub-loops, they may thus, on the basis of specific national circumstances, form part of market 11. Fibre glass connections or part of them may also be found to belong to a separate market which is not in the Recommendation, subject to the three criteria test. In any event, since fibre lines are currently regulated in Germany, it needed to be emphasised that the possible maintenance, withdrawal or modification of current regulation needs to be based on a new market analysis in accordance with Article 16 of the Framework Directive.
				3 - Collocation	

				4 - Non-discrimination	**Remedies to be determined at a later stage:** The Commission highlighted that RegTP will have to notify the remedies it intends to impose in the markets concerned under Article 7(3) of the Framework Directive. In case **DE/2005/0150**, the Commission made **comments** on:
				5 - Transparency (reference unbundling offer)	**Scope of the proposed remedies**: As glass fibre connections in Germany may form part of market 11, the Commission questions whether the remedies notified on 25 February 2005 in relation to that market should not also extend to glass fibre connections. **Withdrawal by RegTP of DT's obligation to provide access**

				6 - Price control, based on the costs of the efficient provision of services	**to its glass fibre connections**: Despite the Commission's comment in case DE/2004/0119, RegTP intends to withdraw DT's existing obligation to provide access to its glass fibre connections without a market analysis as required by Article 27 in conjunction with Article 16 of the Framework Directive. In the absence of such a market analysis notified to it, the Commission is not in a position to assess the proposed withdrawal of existing regulation. Commission considers that the proposed withdrawal of the existing regulation for access to pure glass fibres is not made pursuant to a market analysis based on a market definition that has been duly notified to the Commission.
				7 - Communication of the location of local loops and of collocation spaces to interested parties on request	
SI/2005/0142	Similar to the Recommendation.	National	Telekom Slovenije	1 - Access on reasonable request	**The Commission made a comment on:** **Choice of an appropriate cost accounting methodology to prevent**

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				2 - Non-discrimination	**margin squeeze:** APEK indicated that the price for fully unbundled access to the local loop in Slovenia is substantially higher than retail access price and gives rise to a likely margin squeeze creating thus an obstacle for operators to enter the market and preventing the existence of effective competition at the retail level. APEK considered the forward looking LRIC cost accounting method to be the most appropriate for the evaluation of cost oriented prices for unbundled access to the local loops, but concluded, however, that this model would represent an excessive burden on Telekom Slovenije and is therefore not proportionate in the current conditions. However, the Commission had concerns as to whether the cost accounting methodology proposed will be effective at addressing the lack of effective competition in the relevant market, at least in the medium term.
				3 - Transparency	
				4 - Cost accounting (fully distributed common costs)	
				5 - Price control	
				6 - Accounting separation	

SI/2005/0181	See Case **SI/2005/0142**.	1 - Price control and cost accounting obligations (prolongation by 6 months of the period for implementing the cost orientation obligation) 2 – Accounting separation obligation (requirement on Telekom Slovenije to render transparent its wholesale prices instead of both wholesale prices and internal transfer prices)	The Commission made a **comment** on: **Choice of an appropriate cost accounting methodology to prevent margin squeeze:** In its revised notification APEK indicated that a possibility of price squeezes between the wholesale and retail prices of local loops cannot be fully excluded in Slovenia. APEK considered the forward looking LRIC cost accounting method to be the most appropriate for the evaluation of cost oriented prices for unbundled access to the local loops, but concluded, however, that this model would represent an excessive burden on Telekom Slovenije and is therefore not proportionate in the current conditions. However, the Commission had concerns as to whether the cost accounting methodology proposed will be effective at addressing the lack of effective competition in the relevant market, at least in the medium term.

FR/2005/0174	Similar to the Recommendation.	National	France Télécom	1 - Access 2 - Non-discrimination 3 - Transparency (publication of a reference offer) 4 - Accounting separation 5 - Cost orientation and cost accounting	**No comments** made by the Commission.
DK/2005/0176	Similar to the Recommendation. The market comprises additionally the services provided in those cases where a retail end-user stops using the narrowband service (voice) provided over the local loop, but still keeps his broadband connection provided by his	National	TDC	1 - Requirement to provide wholesale unbundled access at reasonable request 2 - Price control and cost accounting (LRAIC) 3 - Accounting separation 4 - Non-discrimination	**No comments** made by the Commission.

	broadband operator.			5 - Requirement to publish a reference offer	
HU/2005/0185	Similar to the Recommendation.	5 markets correspondi ng to the former concession areas of the former concession operators	Matáv Rt., Invitel Távközlési Szolgáltató Rt., Hungarotel Távközlési Rt., Emitel Távközlési Rt. Monor Telefon Társaság Rt.	1 - Transparency 2 - Non-discrimination 3 - Accounting separation 4 - Obligation to provide access and interconnection 5 - Particular obligations concerning facility sharing and co-location 6 - Price control and accounting separation	The Commission made **comments** on: **Non-imposition of ex ante regulatory obligations concerning "out of use local loops":** Unless it is technically not possible or economically not viable to unbundle a particular local loop that has been out of use, "out of use" loops should be included in the relevant market, and made subject to the remedies proposed for local loops in use. **Choice of an appropriate cost accounting methodology:** NHH should follow market developments carefully and assess whether a forward looking approach long-run incremental cost model would not be more appropriate in addressing the lack of effective competition than the fully distributed cost model, originally proposed by NHH.

Market 12: Wholesale broadband access

Member State	Market definition similar to Recommendation	SMP found for	Remedies imposed				
			Access / interconnection	Non-discrimination	Transparency	Price control / cost accounting	Accounting separation
Denmark	YES	1 operator	YES	YES	YES	YES	YES
Finland	NO*	43 operators	YES	YES	YES	NO	NO
France***	YES	1 operator	YES ****	YES	YES	YES	YES
Hungary	YES	5 operators	YES	YES	YES	YES	YES
Ireland	NO*	1 operator	YES	YES	YES	YES	YES
Portugal	NO*	1 operator	YES	YES	YES	YES	YES
Sweden	NO*	1 operator	YES	YES	YES	YES	NO
United Kingdom	NO*	2 operators	YES	YES	YES	YES**	YES

** Refinement, broader/narrower market and/or merger of markets*

*** Differentiated or no remedy imposed on certain SMP operators.*

****Including the notification concerning the market for "Wholesale broadband access delivered at national level in France."*

***** This remedy was not imposed in the market for "Wholesale broadband access delivered at national level in France."*

Overview of notifications assessed until 30 September 2005

Market 12: Wholesale broadband access

Overview of notifications assessed until 30 September 2005

Case reference	Product Market Definition	Geographic Market Definition	SMP found for	Remedies Imposed	Results of Community Consultation
UK/2003/0032, 0033 and 0034	Wholesale asymmetric broadband origination (in the UK excluding the Hull area and in the Hull area, including both cable and PSTN networks) and broadband conveyance (in the UK excluding the Hull area).	Two separate markets for broadband origination (UK excluding the Hull area and the Hull area) and one separate market for broadband conveyance (for the UK excluding the Hull area)	BT (broadband origination and broadband conveyance in the UK excluding the Hull area) and Kingston (broadband origination in the Hull area)	1 - General obligation to provide network access on reasonable request (both for BT and Kingston) 2 -Non-discrimination (both for BT and Kingston) 3 - Transparency (reference offer) (both for BT and Kingston)	The Commission made **comments** on: **Product market definition of asymmetric broadband origination including both DSL-and cable-based wholesale:** Although it was not seen as possible to provide asymmetric broadband origination services over the cable networks, given the indirect pricing constraint exercised by cable-based services at the retail level, Oftel concluded that the wholesale market for asymmetric broadband origination includes

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				4 - Transparency (requirement to notify terms and conditions) (both for BT and Kingston)	both DSL-and cable-based wholesale services. By including cable-based wholesale broadband access services in the relevant market, Ofcom should have given greater consideration to the technical, practical and economic feasibility for cable operators to offer facilities equivalent to bitstream access. Notwithstanding, while this approach may have led to a narrower market definition, and there remained doubts as to whether cable-based wholesale services from the market definition would not have lead to a different result in the SMP analysis. Consequently, a conclusion on the exact scope of the market was not relevant for the purposes of the SMP assessment. **National consultation run in parallel with Article 7 consultation:** Any material modification to the draft measure as a consequence of
				5 - Requirement to notify technical information (both for BT and Kingston)	
				6 - Accounting separation (both for BT and Kingston)	
				7 - Retail minus pricing approach for network access (for BT only)	
				8 - Requirement to provide quality of service information (for BT only)	

				9 - Obligations relating to new network access (for BT only)	comments made by interested parties in the framework of the national consultation will require the draft measure to be re-notified.
UK/20040064	See Cases **UK/2003/0032-0034.**			Details of transparency obligations (publication of Quality of Service and information in the form of Key Performance Indicators)	**No comments** made by the Commission.

FI/2004/0062	The market for wholesale broadband services, comprising bitstream services and services alike (provided by any technology), but excluding the access link to the customer premises in the PSTN network.	Regional	43 local operators	1 - Obligation to lease transmission capacity (including necessary equipment) to the other operators as a wholesale broadband product	The Commission made **comments** on: **Definition of wholesale broadband services markets:** Ficora's market definition does not cover the access link to the customer premises. Therefore, in order to be able to provide broadband services to end-users, a third party must acquire a further local loop product, in addition to the wholesale broadband product. However, since the local loop product is regulated, and the wholesale broadband services markets are proposed to be regulated, the availability of “access to data transmission services to be supplied to an end user at a fixed location” in Finland would not be different to a situation where the

				2 - Transparency (publish delivery terms and tariff information)	wholesale broadband access market would be defined in accordance with market 12 of the Recommendation. The Commission trusted that the combination of regulation of unbundled local loops and the wholesale broadband services will provide access seekers with a seamless service both in respect of technology and in respect of the commercial contracts involved. Ficora will need to examine any change in the regulatory measures in the local loops markets also in terms of their impact on the market for wholesale broadband service and vice-versa. **Prices and conditions:** Regulating the wholesale

				3 - Non-discrimination	broadband access market in a way which requires a third party to acquire two separate wholesale products may not be the most effective way to promote competition. Although the provision of two separate products instead of one will not lead to any competitive disadvantage for access seekers, Ficora should ensure, however, that the two wholesale products in combination are provided on conditions and at prices which are comparable to a situation where a regulated single wholesale input were available. **Inclusion of cable in the definition of the wholesale broadband access market:** Despite the fact that the evidence provided does not seem to sufficiently support the conclusion that wholesale broadband services provided over a PSTN network and a cable network belong to the same market, the exclusion of cable-based wholesale services from the market definition would not have led to a different result of the SMP analysis in this particular case.

SE/2004/0083	Wholesale broadband access in the form of bitstream access (including cable-TV networks and Local Area Networks).	National	Teliasonera AB	1 - Access obligation 2 - Price regulation (retail minus) and cost accounting 3 - Non-discrimination 4 - Transparency (reference offer)	The Commission made a **comment** on: **Cable-TV networks as alternative infrastructure for the provision of wholesale bitstream access:** No bitstream connections are currently provided over cable-tv networks in Sweden. Consequently, PTS is invited to make clear in its final decision that cable-TV networks are excluded from the relevant product market, and to consider concluding that it is unlikely for cable-TV operators to enter the market for wholesale bitstream access in the near future. Potential competition from cable-TV operators could only constrain to a very limited extent, if at all, the market behaviour of the current providers of wholesale bitstream access.
IE/2004/0093	Bitstream access permitting the transmission of broadband data in both directions and other wholesale access provided over other	National	eircom	1 - Access to and use of specific network facilities	The Commission made a **comment** on: **Self-supply by cable operators and FWA operators in the relevant product market:** ComReg explicitly excludes any

	infrastructures, if and when they offer facilities equivalent to bitstream access. Includes cable networks and Fixed Wireless Access (FWA).			2 - Non-discrimination 3 - Transparency 4- Accounting separation 5 - Price control and cost orientation (pending a further decision on wholesale price control, retail minus pricing is applied)	potential direct constraint exercised by providers of cable- or Fixed Wireless Access (FWA)-based wholesale inputs and bases its conclusions on market definition entirely on an assumed indirect pricing constraint derived from substitutability at the retail level. In the presence of evidence excluding demand side substitutability at the wholesale level, such an indirect competitive constraint could have been taken into account subsequent to the definition of the relevant market, i.e. at the stage of assessment of SMP. In the case of FWA platforms, the limited capacity carried on these networks may even call into question the existence of an indirect pricing constraint, as one of the assumptions of the "indirect pricing constraint" approach is the ability of providers to increase output in case of a retail price increase by the competing network operator.

PT/2004/0118	Wholesale broadband access services (supported by the PSTN and the cable-TV-network).	National	The PT Group	1 - Access obligation 2 - Non-discrimination 3 - Transparency and reference offer 4 - Accounting separation	The Commission made a **comment** on: **Inclusion of cable in the definition of the wholesale broadband access market:** Before including cable networks in the relevant market definition, the NRAs should give due consideration to the technical, practical and economic feasibility for cable operators to offer facilities equivalent to bitstream access. There are specific aspects of the Portuguese market which should be taken into account when assessing whether cable should be included in the market, such as the fact that the national cable network is to a large extent already upgraded to provide interactive services. The fact that one operator has previously requested, and been denied, access to the cable network might suggest that there is a certain degree of demand-side substitutability in the market. It may be questioned whether wholesale broadband access via the cable network should be

				5 - Price control (retail minus) and cost accounting 6 - Information requirements	included in the relevant product market. However, in this particular case the exclusion from the relevant product market of wholesale bitstream access provided via cable-TV networks would not lead to a different result in the SMP analysis. Consequently, a conclusion on the exact scope of the relevant product market is not relevant for the purposes of SMP assessment. However, should the PT Group decide to divest of its cable-TV-business, the use of the current definition of the relevant product market may have a major impact on the SMP finding. Therefore, Anacom was asked to re-conduct its market analysis and the proposed remedies in case PT Group decides to divest of its cable business.
FR/2005/0175	Similar to the Recommendation.	Metropolitan France, the French over-seas territories and Mayotte, excluding the territory		1 - Access obligation 2 - Non-discrimination 3 - Transparency - obligation to make public information regarding access	**No comments** made by the Commission.

		of Saint-Pierre-et-Miquelon		4 - Quality of service 5 - Price control (prices should be cost-oriented reflecting “the long-run costs of an efficient operator") 6 - Accounting separation	
FR/2005/206	The provision of wholesale broadband access products delivered at a single national point of presence, regardless of whether (i) the technical interface used is IP or ATM and (ii) the products are meant to be provided ultimately to residential or non-residential customers at retail level, excluding wholesale access	Metropolitan France, the French over-seas territories and Mayotte	France Télécom	1 - A form of price control (i.e. “interdiction de pratiquer des tarifs d’éviction”)	The Commission made **comments** on: **Market definition:** In previous cases notified pursuant to Article 7(3) of the Framework Directive, the product market in question has been considered by some NRAs to be part of market 12 of the Recommendation. In the present case, however, and on the basis of the notification and the additional information provided by ARCEP, the Commission is of the view that ARCEP has demonstrated specific national circumstances justifying that the notified

	technologies other than DSL such as cable.			2 - Non-discrimination 3 - Accounting separation	market constitutes a separate market susceptible for ex ante regulation. **SMP assessment:** Market shares in the present case may not necessarily reflect reliable information on the competitive level of supply on the relevant market. ARCEP accords great importance to France Télécom's economies of scale and scope following Wanadoo's reintegration (i.e. to the essential role of these economies in France Télécom's production cost structure). The Commission considers that, should the upstream remedies be already properly enforced, these economies could be constrained, to a certain extent. ARCEP should consider reflecting better this point in the final measure. ARCEP should also consider explaining in more detail in the final measure the obstacles that could limit a self-supplier's ability to enter the market. Moreover, imminent structural changes and their effects on the competitive conditions on

				4 - Obligation to formalise and transmit to ARCEP the tariffs and technical conditions of internal transactions between the wholesale "network" branch and the retail "ISP" branch.	the market need to be addressed in ARCEP's analysis. **Remedies:** When the obligations on LLU and regional bitstream will be properly enforced and in particular accounting separation, regulation as proposed in this notification would no longer be necessary. In this respect, given the uncertainties as to how market conditions will evolve beyond the next 12 months and the effect of upstream remedies being properly enforced, the Commission invites ARCEP (i) to ensure full and effective enforcement of existing LLU and regional bitstream obligations within the shortest possible timeframe; (ii) to commit reviewing the present market analysis once the full enforcement of the remedies referred to in (i) above is ensured and at the latest within one year following adoption of the final measure resulting from this notification, and (iii) to limit the validity of the obligations proposed in the present draft measure accordingly.

HU/2005/0186	Similar to the Recommendation.	5 markets corresponding to the former concession areas of the former concession operators	Matáv Rt., Invitel Távközlési Szolgáltató Rt., Hungarotel Távközlési Rt., Emitel Távközlési Rt. Monor Telefon Társaság Rt.	1 - Transparency 2 - Non-discrimination 3 - Accounting separation 4 - Access and interconnection 5 - Price control and cost-orientation (local bitstream access to be provided on cost-oriented prices, based on FDC methodology; national bitstream access to be	The Commission made **comments** on: **Implementation of the proposed "retail minus" obligation:** NHH is invited to adopt the draft measure setting out the details of the "retail minus" formula as soon as possible in order to provide adequate transparency and certainty for the market players concerned. In this respect, NHH is reminded that once adopted, the measure setting out the margin between the retail and wholesale offerings should be notified under Article 7(3) of the Framework Directive. **Offerings other than local and national bitstream access:** In case there would be unsatisfied market demand for other types of wholesale bitstream access, in particular at ATM level, NHH should consider the use of the regulatory means available to it, including particularly the launch of a market review procedure.

				provided on retail minus basis)	**Provision of voice services using a bitstream access product:** NHH should ensure that there are no unjustified limitations imposed by the SMP operators on third parties such as preventing them from using local bitstream access to offer voice services.
DK/2005/0182	**Withdrawn** by the National Regulatory Authority (renotified under case number **DK/2005/0209**)				
DK/2005/0209	Similar to the Recommendation.	National	TDC	1 - Requirement to meet reasonable requests to provide wholesale access and co-location with associated facilities 2 - Non-discrimination 3 - Cost accounting and accounting separation 4 - Transparency 5 - Price control in the form of uniform national pricing based on modified historic costs for the access products	**No comments** made by the Commission.

Market 13: Wholesale terminating segments of leased lines							
Member State	**Market definition similar to Recommendation**	**SMP found for**	**Remedies imposed**				
			Access / interconnection	Non-discrimination	Transparency	Price control / cost accounting	Accounting separation
Austria	YES	1 operator	YES	YES	YES	YES	YES
Finland	YES	43 operators	YES	YES	YES	NO	NO
Hungary	YES	1 operator	YES	YES	YES	YES	YES
Ireland	YES	1 operator	YES	YES	YES	YES	YES
Portugal	YES	1 operator	YES	YES	YES	YES	YES
Sweden	YES	1 operator	YES	YES	YES	YES	YES
United Kingdom	NO**	2 operators	YES	YES	YES	YES*	YES*

**Differentiated or no remedy imposed on certain SMP operators*

*** Refinement, broader/narrower market and/or merger of markets*

Overview of notifications assessed until 30 September 2005

Market 13: Terminating segments of leased lines

Overview of notifications assessed until 30 September 2005

Case reference	Product Market Definition	Geographic Market Definition	SMP found for	Remedies Imposed	Results of Community Consultation
UK/2003/0037-0038	Refinement of the market definition in the Recommendation, four wholesale markets in the UK excluding the Hull area and in the Hull area: – wholesale low bandwidth traditional interface symmetric broadband origination (up to and including 8Mbit/s); – wholesale high	National market with local characteristics (UK excluding the Hull area and the Hull area)	BT (with the exception of the very high capacity segment, where no SMP was found) and Kingston (with the exception of the very high capacity segment	1 - Provision of network access on reasonable request 2 - Non-discrimination 3 - Basis of charges obligation (cost orientation and a cost accounting system) 4 -Transparency (reference offer and technical information)	The Commission made **comments** on: **Market definition:** On the basis of the existence of different competitive conditions, Oftel has refined the leased line product markets as defined in the Recommendation, allowing proposing the removal of existing regulation on the market for very high bandwidth circuits. Oftel has defined a national market with local characteristics taking account of certain variations in the level of competition in different areas. Oftel's analysis is

	bandwidth traditional interface symmetric broadband origination (above 8Mbit/s up to and including 155Mbit/s); – wholesale very high bandwidth traditional interface symmetric broadband origination (above 155Mbit/s) in the UK excluding the Hull area; – wholesale alternative interface symmetric broadband origination.			5 - Price control (BT only) 6 - Accounting separation (BT only) 7 - Requirement to provide advance notification of changes to (or introduction of) prices, terms and conditions (BT only) 8 - Requirement to provide quality of service information (BT only) 9 - Obligations relating to requests for new network access (BT only)	consistent with the methodology set out in the Recommendation and in the Commission's Guidelines on market analysis and the assessment of significant market power. Ofcom is invited to monitor closely the market developments and examine whether the proposed wholesale obligations (and in particular the ability for tariffs for wholesale trunk segments to be geographically de-averaged) change the geographic variations to such a degree as to make the definition of an alternative geographic market more appropriate in the future. **National consultation run in parallel with Article 7 consultation:** Any material modification to the draft measure as a consequence of comments made by interested parties in the framework of the national consultation will require the draft measure to be re-notified.

UK/2004/0077	See Cases **UK/2003/0037-0038.**			Amendments to the interim charge control obligations imposed on BT	**No comments** made by the Commission.
UK/2004/0123	See Cases **UK/2003/0037-0038.**			Slight modification of the remedies already notified because of the establishment of the Telecommunications Adjudicator.	**No comments** made by the Commission.
FI/2004/0080	Leased lines including a connection to the end-user (similar to the Recommendation).	Regional	43 operators	1 - Obligation to provide line rental of a leased line	**No comments** made by the Commission.
				2 - Obligation to publish delivery terms and tariff information	
				3 - Non-discrimination	
AT/2004/00100	Similar to the Recommendation.	National	Telekom Austria	1 - Provision of access to terminating segments on reasonable request	The Commission made a **comment** encouraging TKK to make clear that the proposed

				2 - Cost orientation and cost accounting 3 - Non-discrimination 4 - Transparency (reference offer) 5 - Accounting separation	remedies would apply to all products within the relevant market and that the specific obligations set down in national legislation relating to leased lines used for the purpose of network interconnection are above and beyond those proposed for this market.
HU/2005/0168	Similar to the Recommendation.	National	Matáv Rt.	1 - Transparency 2 - Non-discrimination 3 - Accounting separation 4 - Access obligation 5 - Price control (retail minus)	**No comments** made by the Commission.
IE/2005/0139	Similar to the Recommendation.	National	eircom	1 - Access obligation 2 - Non-discrimination	The Commission made a **comment** on: **The further consultation planned by ComReg:** The draft measures relating to the

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				3 - Transparency 4 - Accounting separation 5 - Price control and cost accounting	details and implementation of the accounting separation and cost accounting obligations are required to be notified under Article 7(3) of the Framework Directive.
PT/2005/0156	Similar to the Recommendation (in addition to traditional terminating leased lines, the market definition covers also symmetric xDSL technologies with capacity up to and including 2 Mbps).	National	PT Comunicaçõnes	1 - Access obligation 2 - Non-discrimination 3 - Transparency 4 - Accounting separation 5 - Price control (cost orientation and retail minus) and cost accounting	**No comments** made by the Commission.
SE/2005/0200	Facilities providing for transparent symmetric transmission capacity between network termination points which do not	National	TeliaSonera	1 - Provision of terminating segments on reasonable request 2 - Price regulation of certain terminating segments (cost-orientation based on fully distributed costs)	The Commission made a **comment** on: **Market share data:** The market share data collected by PTS indicate an aggregated market share with regard to all

	include on-demand switching (similar to the Recommendation).			3 - Obligation to interconnect networks on reasonable request 4 - Notification of price changes and submission of accounts statements 5 - Non-discrimination 6 - Publication of important terms and conditions 7 - Accounting separation	types of wholesale leased lines i.e. terminating and trunk segments considered jointly. When notifying the market for trunk segments, PTS is encouraged to provide more specific figures or estimations for that market, excluding terminating segments.
SI/2005/0220	**Withdrawn** by the National Regulatory Authority				

Market 14: Wholesale trunk segments of leased lines

Member State	Market definition similar to Recommendation	SMP found for	Remedies imposed				
			Access / interconnection	Non-discrimination	Transparency	Price control / cost accounting	Accounting separation
Austria	YES	**No SMP found**					
Finland	YES	**No SMP found**					
Hungary	YES	**No SMP found**					
Ireland	YES	1 operator	YES	YES	YES	YES	YES
Portugal	YES	1 operator	YES	YES	YES	YES	YES
United Kingdom	YES	1 operator	YES	YES	YES	YES	YES

Overview of notifications assessed until 30 September 2005

Market 14: Wholesale trunk segments of leased lines - notifications assessed until 30 September 2005

Overview of notifications assessed until 30 September 2005

Case reference	Product Market Definition	Geographic Market Definition	SMP found for	Remedies Imposed	Results of Community Consultation
UK/2003/0039	Similar to the Recommendation.	National	BT	1 - Obligation to provide network access on reasonable request 2 - Requirement not to discriminate unduly 3 - Basis of charges obligation (cost orientation and a cost accounting system) 4 -Transparency (reference offer and technical information) 5 - Price control 6 - Accounting separation	The Commission made **comments** on: **Market definition:** The Commission invites Ofcom to monitor closely the market developments and examine whether the proposed wholesale obligations (and in particular the ability for tariffs for wholesale trunk segments to be geographically de-averaged) change the geographic variations to such a degree as to make the definition of an alternative geographic market more appropriate in the future. **National consultation run in parallel with Article 7 consultation:** Any material

				7 - Requirement to provide advance notification of changes to (or introduction of) prices, terms and conditions;	modification to the draft measure as a consequence of comments made by interested parties in the framework of the national consultation will require the draft measure to be re-notified under Article 7(3) of the Framework Directive.
				8 - Requirement to provide quality of service information	
				9 - Obligations relating to requests for new network access	
UK/2004/0123	See Cases **UK/2003/0037-0038.**			Slight modification of the remedies already notified because of the establishment of the Telecommunications Adjudicator.	**No comments** made by the Commission.
FI/2004/0081	Similar to the Recommendation.	National	No SMP found	No remedies imposed	**No comments** made by the Commission.

AT/2004/0074	Similar to the Recommendation.	National	No SMP found	No remedies imposed	**No comments** made by the Commission.
HU/2005/0169	Similar to the Recommendation.	National	No SMP found	No remedies imposed	**No comments** made by the Commission.
IE/2005/0140	Similar to the Recommendation.	National	eircom	1 - Access obligation 2 - Non-discrimination 3 - Transparency	The Commission made a **comment** on: **Further consultation planned by ComReg:** ComReg states in its draft measures that a further consultation will be held on the details and implementation of accounting

				4 - Accounting separation 5 - Price control and cost accounting	separation and cost accounting obligations. The Commission services would like to remind ComReg that draft measures relating to these regulatory obligations are required to be notified under Article 7(3) of the Framework Directive.
PT/2005/0157	Similar to the Recommendation.	National	PT Comunicaçõnes	1 – Access obligation 2 – Non-discrimination 3 – Transparency 4 – Accounting separation 5 – Price control	**No comments** made by the Commission.
SI/2005/0220	**Withdrawn** by the National Regulatory Authority				

Market 15: Access and call origination on public mobile telephone networks

Member State	Market definition similar to Recommendation	SMP found for	Remedies imposed				
			Access / interconnection	Non-discrimination	Transparency	Price control / cost accounting	Accounting separation
Austria	YES	**No SMP found**					
Finland	YES	**No SMP found***					
Hungary	YES	**No SMP found**					
Ireland	YES	2 operators (joint SMP)	YES	YES	NO	YES	YES
Slovenia	YES	1 operator	YES	YES	NO	YES	NO
Sweden	YES	**No SMP found**					
United Kingdom	YES	**No SMP found**					

** In its notification FI/2004/0082, Ficora proposed to designate one operator with SMP. The notified draft measure was vetoed by the Commission on 5 October 2004. On 13 October 2004, following the veto decision, Ficora adopted a final measure taking into account the Commission veto decision and concluded that the market is effectively competitive. Therefore, there is no operator with SMP in the market.*

Overview of notifications assessed until 30 September 2005

Market 15: Access and call origination on public mobile telephone networks

Overview of notifications assessed until 30 September 2005

Case reference	Product Market Definition	Geographic Market Definition	SMP found for	Remedies Imposed	Results of Community Consultation
UK/2003/0001	Similar to the Recommendation.	National	No SMP found	No remedies imposed	The Commission made **comments** on: **Reliance on comments from parties other than the Commission and other NRAs:** Any material modification to the draft measure as a result of comments from third parties will require re-notification. **Inclusion of 3G telephony in the market definition:** Market definition should be technology-neutral. 3G voice and SMS services offered at present or in the near future are, from demand-side perspective, not distinguishable from their 2G equivalents, and appear to be part of the same relevant market. **Market share analysis:** The use of derived market shares is broadly in line with the

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					Commission's practice when assessing hypothetical markets or markets with a high degree of vertical integration. When calculating market shares, preference should be given to volume based as opposed to value-based calculation. **Use of international benchmarking and concentration measures:** The fact that the UK market has a lower Herfindahl-Hirschmann-Index ("HHI") score than markets in other Member States is not in itself an indication of its propensity towards or away from collective dominance.
AT/2004/0063	Similar to the Recommendation.	National	No SMP found	No remedies imposed	The Commission made **comments** on: **Monitoring of the market:** Opinions from competitors and the conduct of undertakings should be monitored very closely and be taken into consideration when assessing this market in a future review. **National consultation running in parallel with Article 7 consultation:** Any material modification to the

					draft measure as a consequence of comments made by interested parties in the framework of the national consultation will require the draft measure to be re-notified.
FI/2004/0082	Similar to the Recommendation.	National	Sonera Mobile Networks Oy*	1 - Obligation to relinquish access rights 2 - Interconnection	The Commission **vetoed** the draft measure based on : **Lack of taking into consideration the apparent market dynamics:** Even though there is currently no regulatory obligation for mobile network operators ("MNOs") to provide access, both service providers ("SPs") and mobile virtual network operators ("MVNOs") have been able to conclude agreements on a commercial basis with each of the three nationwide-operating MNOs. **Lack of evidence of capacity constraints:** There is not sufficient evidence as to the existence of barriers to expansion in the relevant market. **Lack of evidence as to high switching costs and the absence of countervailing buying power:** The incentives

				3 - Non-discrimination (pricing and other terms)	of MNOs to bear the costs of switching themselves was not considered. The largest SP has made an MVNO agreement with two MNOs. SPs ask for competing offers from different MNOs. **Undue weight given to evidence of network effects, economies of scale and scope, and substantial financial advantages:** Differences in capacity utilisation do not offer a sustainable competitive advantage to an operator and can be overcome by attracting a larger number of customers onto existing capacity. Network effects are claimed to be particularly strong due to differences in prices for on-net and off-net calls, which are mainly relevant for the assessment of the retail mobile market. Concerning financial advantages, TeliaSonera's competitors are also parts of large vertically and horizontally integrated telecommunications groups.
				4 - Obligation to negotiate on national roaming with a network operator that has a license for a third generation mobile network	
***) On 13 October 2004, following the veto decision, Ficora adopted a final measure taking into account the Commission veto decision of 5 October 2004 and concluded that the market is effectively competitive. Therefore, there is no operator with SMP in the market.**					

HU/2004/0096	Similar to the Recommendation.	National	No SMP found	No remedies imposed	The Commission made a **comment** on: **Absence of analysis of the wholesale market:** The fact that at the wholesale level no transactions are taking place on the merchant market does not exclude the possibility to analyse the relevant market. NHH is invited to monitor the relevant market, especially with regard to the fact that it can be presumed that within the timeframe of its review market players will appear on the demand side of the relevant market.
HU/2004/0108 (Re-notification related to HU/2004/0096)	Similar to the Recommendation.	National	No SMP found	No remedies imposed	The Commission made a **comment** on: **Comment made in previous case:** As the re-notified draft measure does not contain any changes of substance, the comment made in case HU/2004/0096 remains valid in the context of this case.

IE/2004/0121	Similar to the Recommendation.	National	Vodafone and 02 (joint SMP)	1 - Provision of network access following a reasonable request by an access seeker 2 - Non-discrimination obligation 3 - Price control - cost orientation and cost accounting	The Commission made **comments** on: **Analysis based on the retail market:** Where all supply on the relevant market is captive, the structure of supply at the wholesale level can be derived from supply at the retail level. **Fringe competitors:** ComReg should monitor the effective developments of the emergent competitors very closely in the near future and, when appropriate, review its SMP analysis and the regulatory measures imposed. For a competitor to be able to disrupt tacit collusion, it is not necessary to be a strong competitor of the tacitly colluding parties. **Further consultation planned by ComReg:** Draft measures relating to price control and cost accounting obligations are required to be notified. **National consultation run in parallel with Article 7 consultation:** Any material modification to the draft measure as a consequence of

				4 - Accounting separation	comments made by interested parties in the framework of the national consultation will require the draft measure to be re-notified**.**
FR/2005/0179	**Withdrawn** by the National Regulatory Authority:				
SE/2005/0203	Similar to the Recommendation.	National	No SMP found	No remedies imposed	**No comments** made by the Commission.
SI/2005/0230	Similar to the Recommendation.	National	Mobitel	1 -Provision of access in response to a reasonable request	The Commission made **comments** on: **Effectiveness of the proposed wholesale remedies in light of the competitive situation at the retail level:** Remedies imposed on the mobile access and call origination market should be complemented as

				2 –Obligation of non-discrimination	soon as possible by effective regulation of the wholesale markets for call termination on mobile networks. The Commission stresses the importance of measures taken under competition law to avoid restrictions of competition at retail level.
				3 –Price control	**Implementation of the proposed price control obligation:** Price regulation should be applied only if commercial negotiations between parties do not result in an agreement**.** The benchmark analysis for termination rates does not seem to form an appropriate point of reference for assessing the reasonability of wholesale access and call origination prices.

Market 16: Voice call termination on individual mobile networks

Member State	Market definition similar to Recommendation	SMP found for	Remedies imposed				
			access/interconnection	Non-discrimination	Transparency	Price control / cost accounting	Accounting separation
Austria	YES	6 operators	YES	YES	YES	YES	NO
Denmark	YES	5 operators	YES	YES	YES	YES*	NO
Finland	YES	4 operators	YES	YES	YES	YES*	YES*
France	YES	8 operators	YES	YES	YES	YES	YES
Greece	YES	4 operators	YES	YES	YES	YES*	NO
Hungary	YES	3 operators	YES	YES	YES	YES	YES
Ireland	YES	4 operators	YES	YES	YES	YES*	YES*
Lithuania	YES	3 operators	YES	YES	YES	YES	NO
Malta	YES	2 operators	YES	YES	YES	YES	YES
Netherlands	YES	6 operators	YES	YES	YES	YES*	NO
Portugal	YES	3 operators	YES	YES	YES	YES	YES
Slovakia	YES	2 operators	YES	YES	YES	YES	YES
Sweden	YES	5 operators	YES	YES	YES	YES*	YES*
United Kingdom	YES	6 operators	YES*	YES*	YES	YES*	NO

** Differentiated or no remedy imposed on certain SMP operators*

Overview of notifications assessed until 30 September 2005

Market 16: Voice call termination on individual mobile networks

Overview of notifications assessed until 30 September 2005

Case reference	Product Market Definition	Geographic Market Definition	SMP found for	Remedies Imposed	Results of Community Consultation
FI/2003/0031	Operator-specific relevant markets.	Geographic coverage of each network = geographic extent of each relevant market	Sonera Mobile Networks Oy Radiolinja Origo Oy Finnet Verkot Oy Ålands Mobiltelefon Ab	1 - Interconnection	The Commission made **comments** on: **The limitation of the remedies to the termination of calls originating on mobile networks in Finland or originating abroad:** The remedies imposed should not be limited on the basis of the originating network. By limiting the remedies as is proposed, Ficora does not base the remedy on the nature of the problem identified. It is recognized that the basis for excluding calls originating on a fixed network in Finland from
				2 - Transparency - publish delivery terms and tariff information	

				3 - Obligations concerning pricing and other terms - Non-discrimination	the proposed remedies is the Finnish Communications Act. The primacy of Community law requires any provision of national law which contravenes a Community rule to be disapplied. **The asymmetrical application of certain remedies, which are imposed on three SMP operators but not on Ålands Mobiltelefon Ab:** In circumstances where it is likely that the market failure identified will be the same in all markets, where a NRA intends to impose different remedies on different operators within similarly defined markets, such differential treatment should be adequately reasoned. **Cost-orientation and cost accounting obligations:** Where each operator is to select the cost-accounting
				4 - Use of cost accounting procedure	
				5 - Accounting separation	

				Ålands Mobiltelefon Ab: only the first 2 remedies and non-discrimination	procedures it wishes to use, this limits the measures' contribution to consumer benefit, the enhancement of competition and the development of the internal market.
UK/2003/0040	Operator-specific relevant markets.	Geographic coverage of each network = geographic extent of each relevant market	Hutchison 3G UK Ltd O2 Ltd Orange plc T Mobile Ltd Vodafone Ltd Inquam Telecom Holdings Ltd	1 - Provision of network access 2 - Non-discrimination 3 - Control of charges 4 - Transparency - to publish access contracts	The Commission made **comments** on: **The appropriateness of the proposed set of obligations:** Termination of voice calls on 3G networks is not as such to be considered as a novel service or a newly emerging market. It might be appropriate for Ofcom to impose in certain transparency obligations on "3", O2, Orange, T-Mobile and Vodafone regarding 3G termination. **Designation of Inquam as an operator having SMP:** As Inquam's subscribers are predominantly small- and medium-sized enterprises sensitive to the cost of customers calling them, this could limit Inquam's freedom to set termination charges at an

				5 -Transparency - to publish charges and an advanced notice of changes to charges Hutchinson 3G UK and Inquam Telecom Holdings Ltd.: only the obligation to publish charges and an advanced notice of changes to charges.	excessive level. **National consultation run in parallel with Article 7 consultation:** Any material modification to the draft measure as a consequence of comments made by interested parties in the framework of the national consultation will require the draft measure to be re-notified.
UK/2004/0087 (Remedies related to case UK/2003/0040)	See case **UK/2004/0040.**			Amendment of the charge controls set for 2G voice call termination.	**No comments** made by the Commission
UK/2005/0199 (Remedies related to case UK/2003/0040)	See case **UK/2004/0041.**			Prolongation of the charge control imposed on Vodafone, O2, Orange and T-Mobile, foreseen to expire on 31 March 2006, until 31 March 2007.	**No comments** made by the Commission

SE/2004/0052	Operator-specific relevant markets.	Geographic coverage of each network = geographic extent of each relevant market	TeliaSonera Sverige AB Tele2 Vodafone Sverige AB Hi3G Access AB Telenor Mobile Sweden AB	1 - Provision of network access and interconnection on reasonable request 2 - Transparency 3- Non-discrimination 4 - Accounting separation 5 - Control of charges and cost orientation obligation (LRIC Model) 6 - Accounting separation obligation (provide PTS with specified cost and revenues for interconnection services, including internal prices) 7 - Obligation to apply a fair and reasonable price Asymmetrical application of remedies: remedies 1 - 3 for all five operators, 4 & 5 to TeliaSonera, Tele2 & Vodafone and 6 & 7 to Hi3G/3 and Djuice	The Commission made **comments** on: **Asymmetrical application of remedies:** PTS is invited to monitor closely the development of the cost structures of the operators on which the obligation to charge 'fair and reasonable prices' is imposed and to assess whether its current assumptions on 'fair and reasonable prices' will remain relevant over the period of the market review. **Parallel consultation:** Any material modification to the draft measure as a consequence of comments made by interested parties in the framework of the national consultation will require the draft measure to be re-notified.
IE/2004/0073, IE/2005/0216 (remedies)	Operator-specific relevant markets.	Geographic coverage of each network = geographic extent of each relevant market	Vodafone Ireland Ltd O2 Ireland Ltd Meteor Mobile Communications Ltd Hutchison 3G Ireland Ltd	1- Access (all operators) 2 - Non-discrimination (all operators) 3 - Cost orientation (all operators)	The Commission made **a comment on:** **The further consultation planned by ComReg:** The draft measures relating to the details and implementation of the accounting separation and cost accounting obligations are

				4 - Cost accounting (Vodafone and O2)	required to be notified under Article 7(3) of the Framework Directive.
				5 - Accounting separation (Vodafone and O2)	

EL/2004/0078	Operator-specific relevant markets.	Geographic coverage of each network = geographic extent of each relevant market	Cosmote SA Info-Quest AEBE Stet Hellas SA Vodafone-Panafon SA	1 - Price control: cost orientation for the first 3 operators but only an obligation of fair and reasonable price for Q-Telecom	**The Commission made comments on:** **Formal notification ahead of transposition:** EETT is entitled to carry out any market analysis prior to transposition of the EU regulatory framework into national law. The validity of the outcome of the present assessment is based on the assumption of a correct transposition of the EU regulatory framework into national law to the extent that the provisions concerned by this assessment are relevant. **Asymmetrical application of remedies:** EETT is invited to monitor closely the development of the cost structures of the operators on which the obligation to charge “fair and reasonable prices” is imposed and to assess whether its current assumptions on “fair and reasonable prices” will remain relevant over the period of the market review. **Obligation of non-discrimination in respect of GSM gateways:** EETT is invited to demonstrate that the non-discrimination obligation in respect of GSM gateways either pertains to the finding of SMP in the relevant product market or is sufficiently justified as an essential element

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EL/2005/0178 (renotification of case EL/2004/0078	Operator-specific relevant markets.	Geographic coverage of each network = geographic extent of each relevant market	Cosmote SA Info-Quest AEBE Stet Hellas SA Vodafone-Panafon SA	1 - Price control obligations: obligation of cost orientation for the first 3 operators but only an obligation of fair and reasonable price for Q-Telecom 2 - Obligation of non-discrimination 3 - Obligation of access to, and use of, specific network facilities 4 - Obligation of transparency 5 - Obligation to publish a reference interconnection offer	The Commission made a **comment** on: **Formal notification ahead of transposition:** The validity of the outcome of the present assessment is based on the assumption of a correct transposition of the EU regulatory framework into national law to the extent that the provisions concerned by this assessment are relevant to the current infringement proceedings pending against Greece. The time period between the market reviews, the national and Community consultations and the adoption of the resulting final measure should be kept as short as possible.
AT/2004/0099	Operator-specific relevant markets.	Geographic coverage of each network = geographic extent of each relevant market	Mobilkom Austria AG & Co KG T-Mobile Austria GmbH One GmbH tele.ring Telekom Service GmbH Hutchison 3G	1 - Obligation to interconnect on reasonable request 2 - Non discrimination concerning quality & external non discrimination obligation concerning prices 3 - Transparency - publication of reference offer	The Commission made a **comment** on: **Implementation of the proposed cost-orientation obligation:** Leaving the setting of cost oriented termination charges to commercial negotiations between operators does not seem the most effective way of

			Austria GmbH	4 - Price control: cost orientation (on the basis of LRAIC)	dealing with the identified competition problem. By not specifying the LRAIC model and the costs which can be taken into account in advance, there is no guarantee that termination rates will be oriented on efficient costs only.
AT/2005/0238	Operator-specific relevant markets.	National	Tele2 (in addition to the five operators designated as having SMP in Case AT/2004/0099)	1 - Obligation to interconnect on reasonable request 2 - Non discrimination concerning quality & external non discrimination obligation concerning prices 3 - Transparency - publication of reference offer 4 - Price control: cost orientation (on the basis of LRAIC)	**No comments** made by the Commission.
HU/2004/0101	Operator-specific relevant markets.	Geographic coverage of each network = geographic extent of each relevant market	T-Mobile Magyarország Távközlési Rt Pannon GSM Távközlési Rt Vodafone Magyarország	1 - Provision of access and interconnection 2 - Transparency	The Commission made a **comment** on: **Implementation of the proposed cost-orientation obligation:** In order to be able to assess the compatibility of the implementing measures

			Mobil Távközlési Rt.	3 - Non-discrimination 4 - Accounting separation 5 - Cost orientation and “controllability” of charges	with the requirements of Article 8(4) of the Access Directive, NHH is invited to notify, once adopted, the implementing measures setting out the timeframe and stages applicable for the reduction of termination charges.
FR/2004/0104	Operator-specific relevant markets.	Geographic coverage of each network = geographic extent of each relevant market	Bouygues Télécom s.a. Orange France s.a SFR s.a. .	1 - Access to, and use of, specific network facilities 2 - Transparency	The Commission made **comments** on: **Formal notification ahead of full transposition and of adoption of secondary legislation:** The resulting measure will need to be re-notified as a draft measure, should any material/substantial elements of ART’s analysis be altered due to further delays in the transposition process, given that data and market structure may still change by a later date of transposition.

				3 - Non-discrimination	**Market analyses in overseas territories:** The compatibility with Community law of the analysis of the relevant markets in the overseas territories will be assessed when ART notifies the corresponding SMP analyses pursuant to Article 7(3) of the Framework Directive. **Market definition and GSM gateways:** While there remain doubts as to the inclusion of termination of fixed-to-mobile calls through GSM gateways in the relevant market, its exclusion from the market definition in this particular case would not have led to a different result in the SMP analysis. **Accounting separation and price control obligations:** Decisions setting (i) the modalities of the accounting separation obligation and the costing methodologies, and (ii) the price ceiling for the year 2007 in respect of SMP undertakings are required to be notified.
				4 - Accounting separation (modalities of which and costing methodologies to be notified)	
				5 - Price control	
				6 - Cost accounting obligation	

FR/2004/0120 (French Overseas Territories)	Operator-specific relevant markets.	Geographic coverage of each network = geographic extent of each relevant market	Bouygues Télécom Caraïbe s.a., Dauphin Télécom s.u., Orange Caraïbe s.a. and Saint-Martin Mobile s.u. in Guadeloupe, Martinique and Guyane; Société Réunionnaise du Radiotéléphone s.a. in Mayotte; Orange Réunion s.a. and SRR in Réunion; Saint-Pierre-et-Miquelon Télécom s.a.s. in Saint-Pierre-et-Miquelon.	1 - Provision of access to, and use of, specific network facilities 2 - Transparency 3 - Non-discrimination 4 - Price control	The Commission made **comments** on: **Market definition and GSM gateways:** While there remain doubts as to the inclusion of termination of fixed-to-mobile calls through GSM gateways in the relevant market, its exclusion from the market definition in this particular case would not have led to a different result in the SMP analysis. **Accounting separation and price control obligations:** Decisions setting (i) the modalities of the accounting separation obligation and the costing methodologies, and (ii) the price ceiling for the year 2007 in respect of SMP undertakings are required to be notified.
PT/2004/0129	Operator-specific relevant markets.	Geographic coverage of each network = geographic extent of each relevant	Telecomunicações Móveis Nacionais, S.A. Vodafone Portugal -	1 - Access obligation 2 - Non-discrimination	The Commission made a **comment** on: **Further consultation planned by Anacom:** Draft measures relating to implementation of

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		market	Comunicações Pessoais, S.A. Optimus - Telecomunicações, S.A.	3 - Transparency 4 - Accounting separation 5 - Price control and cost accounting. Pending adoption: progressive set of price reductions based on an international benchmark	the final cost orientation and cost accounting obligations are required to be notified.
SK/2005/0136	Operator-specific relevant markets.	Geographic coverage of each network = geographic extent of each relevant market	Orange EuroTel	1 - Access obligation 2 - Non-discrimination 3 - Transparency	The Commission made **comments** on: **Implementation of the proposed cost orientation obligation:** It is necessary to specify a cost model and the level of wholesale charges as soon as possible. By doing so, TÚSR will provide adequate transparency and legal certainty for market players, without causing further delays in bringing termination rates to the cost oriented level. **Scope of access remedies:** TÚSR should make clear that

				4 - Accounting separation and cost accounting	the proposed access obligations aim exclusively at remedying the lack of competition in the wholesale markets for voice call termination on individual mobile networks and would apply only to these relevant markets. **National public consultation:** NRAs must conduct a national consultation on each draft measure which have a significant impact on the relevant market, i.e. including the market definitions, and to give all interested parties the opportunity to comment the draft measures.
				5 - Price control, including cost orientation	
LT/2005/0189	Operator-specific relevant markets.	Geographic coverage of each network = geographic extent of each relevant market	Omnitel Bite GSM Tele 2	1 - Price control obligations based on FL-LRIC	**No comments** made by the Commission.
				2 - Non-discrimination	
				3 - Access to, and use of, specific network facilities	
				4 - Transparency	

DK/2005/0204	Operator-specific relevant markets.	Geographic coverage of each network = geographic extent of each relevant market	TDC SONOFON TeliaSonera "3" Tele 2 (MVNO)	1 - Price control obligations based on benchmarking for TDC, Sonofon and TeliaSonera, and an obligation to charge fair and reasonable prices for "3" and Tele 2	The Commission made **comments** on: **Price control based on comparison with other countries:** If a NRA decides to impose price regulation on the basis of a comparison with other countries, it should carefully select the objective criteria and clearly justify the reasons for which it believes that the relevant market(s) in these countries are, on the background of those criteria, most suited as the basis for the comparison taking into account differences between conditions prevailing on the relevant market(s) in the countries compared and its home market. **Asymmetric regulation of Tele 2 (MVNO) and "3":** In circumstances where it is likely that the market failure identified will be the same in all markets and where a NRA intends to impose different remedies on different operators within similarly defined markets, the asymmetrical application of remedies should be adequately reasoned. NITA has not duly substantiated its intended decision not to impose price-control on Tele 2 and "3".

MT/2005/0214	Operator-specific relevant markets.	Geographic coverage of each network = geographic extent of each relevant market	Vodafone Malta Ltd. Mobisle Communications Ltd.	1 - Price control and cost accounting 2 - Non-discrimination 3 - Accounting separation 4 - Transparency 5 - Access	**No comments** made by the Commission.
NL/2005/0215	Operator-specific relevant markets.	National	KPN Mobile Vodafone T-Mobile Orange Telfort Tele2 Mobiel	1 - Price control on the basis of cost orientation (FL-LRIC for all operators except for Tele2 Mobiel) 2 - Provision of access upon reasonable request 3 - Non-discrimination 4 - Transparency	**No comments** made by the Commission.

Market 18: Broadcasting transmission services, to deliver broadcast content to end users							
Member State	**Market definition similar to Recommendation**	**SMP found for**	**Remedies imposed**				
			Access / interconnection	Non-discrimination	Transparency	Price control / cost accounting	Accounting separation
Austria	NO*	SMP analysis not yet notified	Remedies not yet notified				
Finland	NO*	1 operator	YES	YES	YES	YES	YES
Ireland	NO*	1 operator	NO	YES	YES	NO	YES
Sweden	NO*	1 operator	Remedies not yet notified				
United Kingdom	NO*	2 operators	YES	YES	YES	YES	NO

**Refinement, broader/narrower market and/or merger of markets*

Overview of notifications assessed until 30 September 2005

Market 18: Broadcasting transmission services, to deliver broadcast content to end users

Overview of notifications assessed until 30 September 2005

Case reference	Product Market Definition	Geographic Market Definition	SMP found for	Remedies Imposed	Results of Community Consultation
AT/2003/0002 (notification limited to market definition)	Terrestrial television broadcasting.	National	No SMP analysis	Not included in the notification	The Commission declared the notification **incomplete** on the following grounds: No information was provided on essential information such as the number of undertakings in the market, market shares and price levels. No information was provided on the degree of competition at retail level. No information was provided to support the conclusion on the geographic scope of the markets.
	Terrestrial FM radio broadcasting.				

AT/2003/0018 (notification limited to market definition)	Terrestrial television broadcasting.	National	No SMP analysis	Remedies not yet notified	The Commission made a **comment** on: **Exclusion of the market for satellite television broadcasting transmission services from market analysis:** Should a decision identifying trans-national market(s) under Article 15(4) of the Framework Directive be taken in the future, and/or should such decision provide guidance on how to treat the market for satellite broadcasting transmission services, NRAs concerned will be required to conduct the market analysis of these markets accordingly.
IE/2004/0042	Radio broadcasting transmission services on analogue terrestrial networks.	National	RTE Transmission Network Limited	1 - Transparency 2 - Non-discrimination	The Commission made a **comment** on: **Market definition:** The lack of competitive pressure exerted by cable transmission services on satellite transmission services and vice versa raises doubts as to whether transmission services provided over these platforms constitute a single market.

IE/2004/0114 (additional remedies related to case IE/2004/0042)	See case **IE/2004/0042.**			1 - Accounting separation	**No comments** made by the Commission.
FI/2004/0076	Digital television transmission services in terrestrial digital television network in multiplexes A, B and C in compliance with the network licenses. National analogue television transmission services in the terrestrial analogue television network. National digital radio transmission services in the terrestrial digital network.	National, except for the autonomous area of Åland	Digita Oy	1 - Obligation to relinquish capacity in a terrestrial mass communication network 2 - Transparency - publication of delivery terms and tariff information 3 - Cost-orientation cost accounting 4 - Non-discrimination 5 - Accounting separation	The Commission made **comments** on: **Monitoring the appropriateness of proposed remedies:** In light of the review by the Finnish authorities of the market for television activities in the course of 2007, the Finnish authorities are invited to monitor the appropriateness of the remedies imposed on Digita. **Exclusion of satellite broadcasting transmission services from market analysis:** The Finnish authorities are invited to have regard to any future Commission decision on trans-national satellite broadcasting

	National analogue radio transmission services in the terrestrial analogue radio network.				transmission services under Article 15(4) of the Framework Directive and, to the extent that such decision may affect the Finnish authorities' current approach, the Commission invites them to revisit their current analysis with regard to wholesale satellite transmission.
UK/2004/0111	1/ Access to masts and sites operated by ntl.	Market 1: Coverage area of ntl		1 - Provision of network access on fair and reasonable terms (markets 1, 2 & 4) 2 - Non-discrimination (markets 1, 2 & 4)	Draft measures concerning managed transmission services **withdrawn** by NRA
	2/ Access to masts and sites operated by Crown Castle.	Market 2: Coverage area of Crown Castle	Market 1/ ntl	3 - Cost-orientation (markets 1, 2 & 4)	The Commission made a **comment** on: **Exclusion of satellite broadcasting transmission services from market analysis:** Ofcom is invited to have regard to any future Commission decision on trans-national satellite broadcasting transmission services under Article 15(4) of the Framework Directive. Should such a decision be
	3/ Access to other masts and sites used for the provision of broadcasting services.	Market 3: National	Market 2/ Crown Castle	4 - Transparency (reference offer) (markets 1 & 2)	
	4/ National managed transmission services.	Market 4: National	Market 4/ ntl and Crown Castle (joint		

	5/ Regional/metropolitan/local managed transmission services.	Market 5: National	SMP)		taken, and should Ofcom be an NRA concerned by such a decision, it is required to conduct the market analysis with regard to wholesale satellite transmission services with other NRAs identified in such a decision in line with Article 16(5) of the Framework Directive.
SE/2005/0188 (notification limited to market definition and SMP analysis)	Analogue terrestrial television. Digital terrestrial television.	National	Teracom AB	Remedies not yet notified	The Commission made **comments** on: **Broadcasting transmission services via satellite:** Assuming that the market is trans-national as stated by PTS, the Commission invites PTS to take into account any future decision by the Commission concerning the trans-national nature of the market for satellite broadcasting services under Article 15(4) of the Framework Directive. Should such a decision be taken and should PTS be concerned by it, PTS would – in accordance with Article 16(5) of the Framework Directive - be required to conduct the market analysis

	Analogue terrestrial radio.				jointly with other NRAs concerned by the same decision. **The exclusion from ex ante regulation of broadcasting transmission services via cable television networks:** PTS considers that the barriers to enter the cable transmission market may not be sufficiently high and permanent (the first criterion) that this market would warrant ex ante regulation. The evidence provided by PTS does not enable the Commission to fully concur with such a conclusion. However, PTS has demonstrated to a sufficient extent that the structure of this market in Sweden is such that it tends towards effective competition (the second criterion) and therefore that no ex ante regulation is warranted.

New Markets

Member State	Market	SMP found for	Remedies imposed				
			Access / interconnection	Non-discrimination	Transparency	Price control / cost accounting	Accounting separation
Ireland	Retail international leased lines	No SMP found					
Ireland	Retail leased lines above 2 Mbps	No SMP found					
United Kingdom	Wholesale international services to termination points outside the UK	2 operators*	YES	YES	YES	NO	NO
United Kingdom	Wholesale unmetered internet termination services	1 operator**	YES	YES	YES	NO	NO

** 235 separate markets, 118 competitive*
*** In the Hull area. Rest of UK: no SMP*

Overview of notifications assessed until 30 September 2005

New Markets

Overview of notifications assessed until 30 September 2005

	Product Market Definition	Geographic Market Definition	SMP found for	Remedies Imposed	Results of Community Consultation
IE/2005/0194	Wholesale Market for call termination services to service providers at a fixed location.	Notification **withdrawn** by the NRA.			
IE/2004/0128	Retail international leased lines.	National	No SMP found	NONE, withdrawal of regulation	The Commission made a **comment** on: NRA's finding is based on wholesale national leased lines. The Commission notes that the NRA will analyse possible leverage from wholesale markets when analysing this wholesale market and proposing remedies for these markets.
IE/2005/0138	Retail leased lines	National	No SMP	NONE, withdrawal of regulation	**No comments** made by the

	above 2 Mbps.		found		Commission.
UK/2003/0006	Wholesale international services to network termination points outside the UK.	235 separate markets	118 markets found to be competitive; SMP for BT on 113 markets, for C&W on 4 markets	1 - Non-discrimination 2 - Access 2 -Transparency	The Commission made **comments** on: Any material modification to the draft measure will require the draft measure to be re-notified. Substitution via indirect traffic has not been taken into account in the market definition. However this is not relevant if taken into account at SMP finding. The Commission has some doubts on consistency of NRA's analysis, in particular concerning several routes from UK to French overseas departments which should be liberalised destinations. More attention could have been given to the assessment of

				4 - Notification of terms and technical information	SMP on some other routes as market shares and pricing are declining on these routes.
UK/2003/0004 and UK/2003/0005	Wholesale unmetered internet termination services.	Two markets: Hull area and UK outside Hull	For Hull area: Kingston, Rest of UK: no SMP	**For Hull area only:**	The Commission made **comments** on: Any material modification to the draft measure will require the draft measure to be re-notified. Evidence of a separate market as compared to metered access could have been better presented. Unmetered wholesale products could be used for metered retail services. NRA should use new data in light of a forward looking approach to conduct the three criteria test in order to decide whether a market is susceptible for ex-ante regulation.
				1 - Non-discrimination	
				2 - Transparency	
				3 - Access obligation	
				4 - Notification of terms and technical information	